

**RECORDING REQUESTED BY AND
WHEN RECORDED RETURN TO:**

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475 Sansome Street, Suite 1700
San Francisco, California 94111
Attention: Josh D. Anzel, Esq.**

**REGULATORY AGREEMENT
AND DECLARATION OF RESTRICTIVE COVENANTS**

by and between

**CITY OF SAN JOSE, CALIFORNIA,
as Governmental Lender**

and

**KEYES, L.P.,
a California limited partnership,
as Borrower**

dated as of June 1, 2023

relating to:

**\$ _____
City of San José**

**Multifamily Housing Revenue Note
(The Charles) Series 2023B-1**

and

**\$ _____
City of San José**

**Multifamily Housing Revenue Note
(The Charles) Series 2023B-2 (Taxable)**

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**REGULATORY AGREEMENT AND
DECLARATION OF RESTRICTIVE COVENANTS**

THIS REGULATORY AGREEMENT AND DECLARATION OF RESTRICTIVE COVENANTS (this “Agreement” or this “Regulatory Agreement”), dated as of June 1, 2023, is by and between the CITY OF SAN JOSE, CALIFORNIA, a municipal corporation and charter city organized and existing under its charter and the laws of the State of California (together with any successor to its rights, duties and obligations, the “Governmental Lender” or “City”), and KEYES, L.P., a California limited partnership (the “Borrower”).

R E C I T A L S :

WHEREAS, in accordance with Chapter 7 of Part 5 of Division 31 (commencing with Section 52075) of the Health and Safety Code of the State of California, as amended (the “Act”), the Governmental Lender is empowered to issue notes and other evidence of indebtedness to finance the acquisition, construction, rehabilitation and equipping of multifamily rental housing; and

WHEREAS, on August 4, 2022, the Governmental Lender, by means of its Declaration No. 2022-3, indicated its intent to provide for the issuance of revenue bonds or notes to finance a portion of the costs of the construction of The Charles, a multifamily residential rental housing project to be located in the City of San José, California, at an address currently referred to as 551 Keyes Street on the site more particularly described in Exhibit A hereto (the “Project”), and the City Council of the Governmental Lender subsequently adopted a resolution on [May 16], 2023 (the “Resolution”) authorizing the issuance of two notes for such purpose; and

WHEREAS, in furtherance of the purposes of the Act and the Resolution, and as a part of the Governmental Lender’s program of financing housing, the Governmental Lender has issued \$ _____ maximum aggregate principal amount of its Multifamily Housing Revenue Note (The Charles), Series 2023B-1 (the “Series B-1 Governmental Note”), and its \$ _____ maximum principal amount of its Multifamily Housing Revenue Note (The Charles), Series 2023B-2 (Taxable) (the “Series B-2 Governmental Note,” and together with the Series B-1 Governmental Note, the “Governmental Notes”), the proceeds of which Governmental Notes will be used to fund a loan (the “Loan”) to the Borrower to finance a portion of the costs of the construction of the Project; and

WHEREAS, in order for interest on the Series B-1 Governmental Note to be excluded from gross income for federal income tax purposes under the Internal Revenue Code of 1986 (the “Code”), and the below-defined Regulations and rulings with respect to the Code, and in order to comply with the Act and the policies with respect to the Governmental Lender’s housing program, the use and operation of the Project must be restricted in certain respects; and

WHEREAS, the Governmental Lender and the Borrower have determined to enter into this Regulatory Agreement in order to set forth certain terms and conditions relating to the acquisition, construction and operation of the Project and otherwise in order to ensure that the Project will be used and operated in accordance with the Code, the Act and the additional requirements of the Governmental Lender and the California Debt Limit Allocation Committee.

A G R E E M E N T :

NOW, THEREFORE, in consideration of the issuance of the Governmental Notes by the Governmental Lender and the mutual covenants and undertakings set forth herein, and other good and

valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the Governmental Lender and the Borrower hereby agree as follows:

Section 1. Definitions and Interpretation. Capitalized terms not otherwise defined in the Recitals hereto or herein shall have the meanings assigned thereto in the Funding Loan Agreement, dated as of June 1, 2023, among the Governmental Lender, Wells Fargo Bank, National Association, and U.S. Bank Trust Company, National Association, as fiscal agent, or Project Loan Agreement, dated as of June 1, 2023, between the Governmental Lender, the Borrower, and U.S. Bank Trust Company, National Association, as fiscal agent, as applicable. The following terms shall have the respective meanings assigned to them in this Section 1 unless the context in which they are used clearly requires otherwise:

“Act” means Chapter 7 of Part 5 of Division 31 of the Health and Safety Code of the State, as the same may be amended from time to time (but only to the extent any such amendments, by their terms or by appropriate election of the Governmental Lender, apply to the Governmental Notes outstanding as of the effective date of such amendments).

“Adjusted Income” means the adjusted income of a person (together with the adjusted income of all persons who intend to reside with such person in one residential unit) calculated pursuant to Section 142(d)(2)(B) of the Code.

“Administrator” means the Governmental Lender or any administrator or program monitor appointed by the Governmental Lender to administer this Regulatory Agreement, and any successor so appointed.

“Affiliated Party” means a limited or general partner or member of the Borrower, a person whose relationship with the Borrower would result in a disallowance of losses under Section 267 or 707(b) of the Code or a person who, together with the Borrower, is a member of the same controlled group of corporations (as defined in Section 1563(a) of the Code, except that “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears therein).

“Agreement” or “Regulatory Agreement” means this Regulatory Agreement and Declaration of Restrictive Covenants, as it may be amended from time to time.

“Area” means the San José, California Primary Metropolitan Statistical Area.

“Authorized Borrower Representative” means any person who, at any time and from time to time, may be designated as the Borrower’s authorized representative by written certificate furnished to the Governmental Lender, the Fiscal Agent and the Funding Lender containing the specimen signature of such person and signed on behalf of the Borrower by or on behalf of any authorized general partner of the Borrower if the Borrower is a general or limited partnership, by any authorized managing member of the Borrower if the Borrower is a limited liability company, or by any authorized officer of the Borrower if the Borrower is a corporation, which certificate may designate an alternate or alternates, or in the event that such term shall refer to successors or assigns of the Borrower, any authorized general partner if the successor or the assignee is a general or limited partnership, any authorized managing member if the successor or assignee is a limited liability company or any authorized officer if the successor or the assignee is a corporation.

“Funding Lender” means any Person who is the holder of the Governmental Notes. The initial Funding Lender is Wells Fargo Bank, National Association.

“Borrower” means Keyes, L.P., a California limited partnership, and its successors and assigns.

“CDLAC” means the California Debt Limit Allocation Committee or its successors.

“CDLAC Conditions” has the meaning given such term in Section 29 hereof.

“CDLAC Resolution” means CDLAC Resolution No. 22-281, adopted on November 30, 2022, attached to this Regulatory Agreement as Exhibit G and related to the Project as such resolution may be modified or amended from time to time.

“Certificate of CDLAC Program Compliance” means the Certification of Compliance II for Qualified Residential Rental Projects to be filed with the Governmental Lender the times specified in Section 29(b) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit E or such other form required or otherwise provided by CDLAC from time to time.

“Certificate of Continuing Program Compliance” means the Certificate of Continuing Program Compliance and Statistical Report to be filed by the Borrower with the Governmental Lender and any Administrator (if other than the Governmental Lender) and the Fiscal Agent at the times specified in Sections 4(d) and (f) of this Regulatory Agreement, such report to contain the information set forth in and to be in substantially the form attached hereto as Exhibit B or such other form as may from time to time be prescribed by the Governmental Lender.

“City” means the City of San José, California, a charter city and municipal corporation of the State.

“Closing Date” means _____, 2023.

“Code” means the Internal Revenue Code of 1986; each reference to the Code shall be deemed to include (a) any successor internal revenue law and (b) the applicable regulations whether final, temporary or proposed under the Code or such successor law.

“Completion Certificate” means a written certification signed by an Authorized Borrower Representative certifying among other things to the substantial completion of the Project and that, prior to the date 36 months after the Closing Date, the Borrower has incurred Qualified Project Costs in an amount equal to or greater than 95% of the Project Costs financed with the Net Proceeds of the Series B-1 Governmental Note, and delivered to the Governmental Lender and CDLAC not more than 36 months after the Closing Date, in substantially the form of Exhibit F hereto or such other form required or otherwise provided by CDLAC from time to time.

“Completion Date” means the date of the completion of the acquisition and construction of the Project, as that date shall be certified as provided in Section 2(i) hereof as specified in the Completion Certificate.

“Compliance Period” means the period beginning on the first day of the Qualified Project Period and ending on the later of the end of the Qualified Project Period or such later date as set forth in Section 29 of this Regulatory Agreement.

“Costs of Issuance” means all fees, costs and expenses directly associated with the authorization, issuance, sale and delivery of the Governmental Notes, and the making of the

Funding Loan and the Project Loan, including fees paid to the Funding Lender in connection with the origination of the Funding Loan.

“Determination of Taxability” means either (a) refusal by the Borrower to consent to any amendment or supplement hereto or to any of the other Loan Documents which, in the written opinion of Tax Counsel delivered to the Governmental Lender, the Fiscal Agent, the Funding Lender and the Borrower, is necessary or advisable to maintain the exclusion of interest on the Series B-1 Governmental Note from gross income for federal income tax purposes; or (b) any of (i) the enactment of applicable legislation of which the Funding Lender or the Governmental Lender has actual knowledge, (ii) a final judgment or order of a court of original or appellate jurisdiction of which the Fiscal Agent has actual knowledge, (iii) a final ruling or decision of the Internal Revenue Service of which the Funding Lender or the Governmental Lender has actual knowledge or (iv) the filing with the Funding Lender and the Governmental Lender of an opinion of Tax Counsel, in each case to the effect that the interest on the Series B-1 Governmental Note (other than interest on the Series B-1 Governmental Note for any period during which such note is held by a “substantial user” of any facility financed with the proceeds of the Series B-1 Governmental Note or a “related person,” as such terms are used in Section 147(a) of the Code) is includable in the gross incomes of all recipients thereof for federal income tax purposes. With respect to the foregoing, a judgment or order of a court or a ruling or decision of the Internal Revenue Service shall be considered final only if no appeal or action for judicial review has been filed and the time for filing such appeal has expired.

“Equity Investor” means Wells Fargo Affordable Housing Corp., together with its successors and assigns.

“Fiscal Agent” means U.S. Bank Trust Company, National Association, in its capacity as fiscal agent under the Funding Loan Agreement, together with its successors and assigns.

“Funding Loan Agreement” means the Funding Loan Agreement dated as of June 1, 2023, by and among the Governmental Lender, the Initial Funding Lender, and the Fiscal Agent relating to the issuance of the Governmental Notes, as amended, modified, supplemented or restated from time to time.

“Governmental Lender” means the City.

“Housing Act” means the United States Housing Act of 1937, as amended, or its successor.

“HUD” means the United States Department of Housing and Urban Development, and any successor thereto.

“Income Certification” means, initially, an Income Certification in the form attached hereto as Exhibit C or in such other form as may from time to time be provided by the Governmental Lender to the Borrower.

“Inducement Date” means August 4, 2022.

“Low Income Tenant” means a tenant whose Adjusted Income does not exceed limits determined in a manner consistent with determinations of lower-income families under Section 8 of the Housing Act, except that the percentage of median gross income that qualifies as lower income shall be 60% of median gross income for the Area with adjustments for family size.

Except as otherwise provided herein, the occupants of a unit in the Project shall not be considered to be Low Income Tenants if all the occupants of a unit are students (as defined in Section 152(f)(2) of the Code) and any one of those students is not (1) a single parent living with his/her children; (2) a student receiving assistance under Title IV of the Social Security Act (Temporary Assistance for Needy Families); (3) a student enrolled in a job training program receiving assistance under the Job Training Partnership Act or under other similar federal, state, or local laws; (4) a student who was previously under the care and placement responsibility of a foster care program (under part B or E of Title IV of the Social Security Act); or (5) a student who is married and files a joint return. Single parents described in (1) above may not be dependents of another individual and their children may not be dependents of another individual other than their parents. The determination of a tenant's status as a Low Income Tenant shall be made by the Borrower upon initial occupancy of a unit in the Project by such Tenant and annually thereafter and at any time the Borrower has knowledge that the number of occupants in that unit has increased, on the basis of an Income Certification executed by the tenant.

"Low Income Units" means the units in the Project required to be rented to, or held available for occupancy by, Low Income Tenants pursuant to Sections 4(a), 4(b) and 6(a) hereof.

"Net Proceeds" means the total proceeds derived from the issuance, sale and delivery of the Series B-1 Governmental Note, representing the total purchase price of the Series B-1 Governmental Note, including any premium paid as part of the purchase price of the Series B-1 Governmental Note, but excluding the accrued interest, if any, on the Series B-1 Governmental Note paid by the initial purchaser of the Series B-1 Governmental Note.

"Noteholder" or "Noteowner" means the entity identified as the owner of the Governmental Notes on the registration books maintained by the Fiscal Agent on behalf of the Governmental Lender pursuant to the Funding Loan Agreement.

"Project" means the Project Facilities and the Project Site.

"Project Costs" means, to the extent authorized by the Code, the Regulations and the Act, any and all costs incurred by the Borrower with respect to the construction of the Project, whether paid or incurred prior to or after the Inducement Date, including, without limitation, costs for site preparation, the planning of housing, related facilities and improvements, the removal or demolition of existing structures, the construction of housing and related facilities and improvements, and all other work in connection therewith, including Qualified Project Costs, and all costs of financing, including, without limitation, the cost of consultant, accounting and legal services, other expenses necessary or incident to determining the feasibility of the Project, contractors' and developer's overhead and supervisors' fees and costs directly allocable to the Project, administrative and other expenses necessary or incident to the Project and the financing thereof (including reimbursement to any municipality, county or other entity or person for expenditures made for the Project).

"Project Facilities" means the buildings, structures and other improvements on the Project Site to be acquired, constructed, equipped or improved by the Borrower, and all fixtures and other property owned by the Borrower and located on, or used in connection with, such buildings, structures and other improvements constituting the Project. Project Facilities do not include retail sales facilities, leased office space, commercial facilities or recreational, fitness, parking or business facilities available to members of the general public.

“Project Loan Agreement” means the Project Loan Agreement, dated as of June 1, 2023, by and among the Governmental Lender, the Borrower, and the Fiscal Agent, as amended or supplemented from time to time.

“Project Site” means the parcel or parcels of real property, and all rights and appurtenances thereunto appertaining, as more particularly described in Exhibit A hereto.

“Qualified Project Costs” means the Project Costs (excluding issuance costs) incurred not earlier than the date 60 days prior to the Inducement Date which either constitute land or property of a character subject to the allowance for depreciation under Section 167 of the Code, or are chargeable to a capital account with respect to the Project for federal income tax and financial accounting purposes, or would be so chargeable either with a proper election by the Borrower or but for the proper election by the Borrower to deduct those amounts; provided, however, that only such portion of the interest accrued on the Series B-1 Governmental Note during the construction of the Project shall constitute Qualified Project Costs as bear the same ratio to all such interest or fees, as applicable, as the Qualified Project Costs bear to all Project Costs; and provided further that interest accruing on or after the Completion Date shall not be Qualified Project Costs; and provided finally that if any portion of the Project is being constructed by the Borrower or an Affiliated Party (whether as a general contractor or a subcontractor), “Qualified Project Costs” shall include only (a) the actual out-of-pocket costs incurred by the Borrower or such Affiliated Party in constructing the Project (or any portion thereof), (b) any reasonable fees for supervisory services actually rendered by the Borrower or such Affiliated Party (but excluding any profit component) and (c) any overhead expenses incurred by the Borrower or such Affiliated Party which are directly attributable to the work performed on the Project, and shall not include, for example, intercompany profits resulting from members of an affiliated group (within the meaning of Section 1504 of the Code) participating in the construction of the Project or payments received by such Affiliated Party due to early completion of the Project (or any portion thereof). Qualified Project Costs do not include Costs of Issuance or costs related to the acquisition or construction of any office or commercial space not functionally related to the dwelling units in the Project. Notwithstanding anything herein to the contrary, no Project Costs relating to the acquisition of the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute “Qualified Project Costs” unless, at the time the Series B-1 Governmental Note proceeds are expended to pay such costs, the Borrower and the seller of such assets are not “related parties” as such term is defined in Section 1.150-1(b) of the Regulations.

“Qualified Project Period” means the period beginning on the first date on which at least ten percent (10%) of the units in the Project are first occupied, and ending on the latest of (a) the date which is 15 years after the date on which at least fifty percent (50%) of the residential units in the Project are first occupied, (b) the first date on which no Tax-exempt private activity bond (as that phrase is used in Section 142(d)(2) of the Code) issued with respect to the Project is outstanding, or (c) the date on which any assistance provided with respect to the Project under Section 8 of the Housing Act terminates.

“Regulations” means the Income Tax Regulations promulgated or proposed (if deemed appropriate in the opinion of Tax Counsel) by the Department of the Treasury pursuant to the Code from time to time.

“Tax Certificate” means collectively, (a) the Certificate as to Arbitrage of the Borrower and the Governmental Lender, dated the Closing Date, and (b) the Certificate Regarding Use of Proceeds of the Borrower, dated the Closing Date.

“Tax Counsel” means an attorney at law or firm of attorneys of nationally recognized standing in matters pertaining to the validity of, and the Tax-exempt nature of interest on, obligations issued by states and their political subdivisions, selected by the Governmental Lender and duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia but shall not include counsel for the Borrower or the Fiscal Agent.

“Tax-exempt” means, with respect to interest on any obligations of a state or local government, including the Series B-1 Governmental Note, that such interest is excluded from gross income for federal income tax purposes; provided, however, that such interest may be includable as an item of tax preference or otherwise includable directly or indirectly for purposes of calculating other tax liabilities, including any alternative minimum tax or environmental tax, under the Code.

Unless the context clearly requires otherwise, as used in this Regulatory Agreement, words of the masculine, feminine or neuter gender shall be construed to include each other gender and words of the singular number shall be construed to include the plural number, and vice versa. This Regulatory Agreement and all the terms and provisions hereof shall be construed to effectuate the purposes set forth herein and to sustain the validity hereof.

The defined terms used in the preamble and recitals of this Regulatory Agreement have been included for convenience of reference only, and the meaning, construction and interpretation of all defined terms shall be determined by reference to this Section 1, notwithstanding any contrary definition in the preamble or recitals hereof. The titles and headings of the sections of this Regulatory Agreement have been inserted for convenience of reference only, and are not to be considered a part hereof and shall not in any way modify or restrict any of the terms or provisions hereof or be considered or given any effect in construing this Regulatory Agreement or any provisions hereof or in ascertaining intent, if any question of intent shall arise.

In the event of any conflict between this Regulatory Agreement and the CDLAC Conditions, the most restrictive requirement in respect of the Project and the tenants thereof shall govern.

The parties to this Regulatory Agreement acknowledge that each party and their respective counsel have participated in the drafting and revision of this Regulatory Agreement. Accordingly, the parties agree that any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in the interpretation of this Regulatory Agreement or any supplement or exhibit hereto.

Section 2. Acquisition and Construction of the Project. The Borrower hereby represents as of the date hereof, covenants and agrees with the Governmental Lender as follows:

(a) The Borrower has incurred, or will incur within six months after the Closing Date, a substantial binding obligation to commence the construction of the Project, pursuant to which the Borrower is or will be obligated to expend an amount equal to at least 5% of the maximum principal amount of the Series B-1 Governmental Note.

(b) The Borrower’s reasonable expectations respecting the total cost of the construction of the Project are accurately set forth in the Borrower Cost Certificate (the “Borrower Cost Certificate”) submitted to the Governmental Lender on the Closing Date.

(c) The Borrower has acquired a leasehold interest in the Project Site and will, within six months following the Closing Date, commence the construction of the Project and will proceed with due diligence to complete the same. Notwithstanding anything herein to the contrary, no Project Costs relating to the Project or any assets relating thereto (including, without limitation, rights and interests with respect to development of the Project) shall constitute “Qualified Project Costs” unless, at the time Series B-1 Governmental Note proceeds are expended to pay such costs, the Borrower and the seller of such assets are not “related parties” as such term is defined in Section 1.150-1(b) of the Regulations. The Borrower reasonably expects to complete the construction of the Project and to expend the full amount of the proceeds of the Project Loan for Project Costs prior to the date that is 36 months after the Closing Date.

(d) The Borrower agrees that the full amount of each disbursement of Project Loan pursuant to the Funding Loan Agreement and the Project Loan Agreement will be applied to pay or to reimburse the Borrower for the payment of Project Costs and that, after taking into account each such disbursement, (i) the aggregate disbursements of Series B-1 Governmental Note proceeds will have been applied to pay or to reimburse the Borrower for the payment of Qualified Project Costs in an aggregate amount equal to 95% or more of the aggregate disbursements of the portion of the Project Loan evidenced by the Series B-1 Governmental Note; and (ii) less than 25% of the proceeds of the Series B-1 Governmental Note expended relative to the Project Site will be disbursed to pay or to reimburse the Borrower for the cost of acquiring land or rights with respect to land relative to the Project Site (exclusive of the cost of acquiring improvements on such land).

(e) The Borrower acknowledges, represents and warrants that it understands the nature and structure of the transactions contemplated by this Regulatory Agreement; that it is familiar with the provisions of all of the documents and instruments relating to the Governmental Notes to which it is a party or of which it is a beneficiary; that it understands the financial and legal risks inherent in such transactions; and that it has not relied on the Governmental Lender for any guidance or expertise in analyzing the financial or other consequences of such financing transactions or otherwise relied on the Governmental Lender in any manner except to issue the Governmental Notes in order to provide funds to assist the Borrower in financing the construction of the Project.

(f) No proceeds of the Series B-1 Governmental Note will be used to pay or reimburse any cost (i) incurred more than 60 days prior to the Inducement Date, or (ii) incurred more than three years prior to such payment or reimbursement. Any allocation of Series B-1 Governmental Note proceeds to the reimbursement of previously incurred costs shall be made not later than 18 months after the later of (i) the date the original expenditure was paid or (ii) the date the Project is placed in service or abandoned.

(g) [intentionally omitted]

(h) The Borrower (and any Affiliated Party) will not take or omit to take, as is applicable, any action if such action or omission would in any way cause the proceeds from the Project Loan to be applied in a manner contrary to the requirements of this Regulatory Agreement, nor will it take or omit to take any such action if the Borrower (or any Affiliated Party) knows that such action or omission may cause the proceeds from the sale of the Governmental Notes to be applied in a manner contrary to the provisions of the Funding Loan Agreement, the Project Loan Agreement, the Act or the Code.

(i) The Borrower shall, on the Completion Date, evidence the Completion Date by providing a Completion Certificate to CDLAC and the Governmental Lender, signed by the Authorized Borrower Representative, stating the total cost of the Project and identifying the total acquisition cost, if any (which shall specify the costs attributable to land and the costs attributable to buildings) and the total Qualified Project Costs and further stating that: (A) construction of the Project has been completed substantially in accordance with the plans, specifications and work orders therefor, and all labor, services, materials and supplies used in construction have been paid for; and (B) all other facilities necessary in connection with the Project have been acquired, constructed and installed substantially in accordance with the plans, specifications, work write-up and work orders therefor and all costs and expenses incurred in connection therewith have been paid. Notwithstanding the foregoing, such certificate may state that it is given without prejudice to any rights of the Borrower against third parties for the payment of any amount not then due and payable that exist at the date of such certificate or that may subsequently exist. The Completion Certificate shall be delivered to the Governmental Lender no later than the date 36 months from the Closing Date unless the Borrower obtains a certificate of the Governmental Lender consenting to an extension of such date, accompanied by an opinion of Tax Counsel to the effect that such extension will not result in interest on the Series B-1 Governmental Note being included in gross income for federal income tax purposes.

(j) The Borrower agrees to spend additional moneys for payment of any costs of the Project sufficient to reduce the portion of Series B-1 Governmental Note proceeds (A) spent on land by the Borrower relative to the Project Site to an amount that is less than 25% of the amount of Series B-1 Governmental Note proceeds spent by the Borrower relative to the Project Site for all purposes, and (B) spent on costs of the Project paid or incurred by or on account of the Borrower or any “related person” (as such term is used in Section 147(a)(2) of the Code) on or after the date 60 days prior to the Inducement Date and chargeable to the capital account of the Project (or so chargeable either with a proper election by the Borrower to deduct such amounts, within the meaning of Treasury Regulation Section 1.103-8(a)(1)) so that the amount of Series B-1 Governmental Note proceeds expended on such Qualified Project Costs are at least 95% of the amount of Series B-1 Governmental Note proceeds spent for all purposes related to the Project.

(k) No Series B-1 Governmental Note proceeds shall be expended to acquire any structures other than buildings within the meaning of Section 147(d) of the Code.

Section 3. Residential Rental Property. The Borrower hereby acknowledges and agrees with the Governmental Lender that the Project is to be owned, managed and operated as a “qualified residential rental project” (within the meaning of Section 142(d) of the Code) for a term equal to the Compliance Period. To that end, and for the Compliance Period, the Borrower hereby represents, covenants, warrants and agrees as follows:

(a) The Project Facilities will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project Facilities as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with Section 142(d) of the Code and Section 1.103-8(b) of the Regulations and the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time. For purposes of this Section 3(a), the term “functionally related and subordinate facilities” includes facilities for use by the tenants (for example, swimming pools, other recreational facilities and parking areas) and other facilities which are reasonably required for the Project, for example, heating and cooling equipment, trash

disposal equipment and units for resident managers and maintenance personnel. Substantially all of the Project will contain such units and functionally related and subordinate facilities.

(b) All of the dwelling units (except for not more than two units set aside for a resident manager or other administrative use) in the Project will be similarly constructed units, and each Low Income Unit in the Project will contain complete separate and distinct facilities for living, sleeping, eating, cooking and sanitation for a single person or a family, including a sleeping area, bathing and sanitation facilities and cooking facilities equipped with a cooking range and oven, a sink and a refrigerator.

(c) None of the dwelling units in the Project will at any time be utilized on a transient basis or will ever be used as a hotel, motel, dormitory, fraternity house, sorority house, rooming house, nursing home, hospital, sanitarium, rest home or trailer court or park.

(d) No part of the Project will at any time be owned by a cooperative housing corporation, nor shall the Borrower take any steps in connection with a conversion to such ownership or uses. Other than filing a condominium map and a final subdivision map on the Project and obtaining a Final Subdivision Public Report from the California Department of Real Estate, the Borrower shall not take any steps in connection with a conversion of the Project to condominium ownership during the Compliance Period.

(e) All of the dwelling units (which shall not include any manager units) in the Project will be available for rental on a continuous basis to members of the general public, and the Borrower will not give preference to any particular class or group in renting the dwelling units in the Project, except to the extent of the following: (1) any dwelling units that are required to be leased or rented to Low Income Tenants, (2) the requirements of any regulatory agreement executed between the Borrower and HUD or between the Borrower and a subordinate lender (including the City), (3) the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, and (4) any preference Borrower gives to a class of persons permitted to be given preference pursuant to the Code, State law and other applicable federal law.

(f) The Project Site consists of a parcel or parcels that are contiguous except for the interposition of a road, street or stream, and all of the Project Facilities comprise a single geographically and functionally integrated project for residential rental property, as evidenced by the ownership, management, accounting and operation of the Project.

(g) No dwelling unit in the Project shall be occupied by the Borrower except for two units set aside for resident managers or maintenance personnel.

(h) The Borrower shall not sell dwelling units within the Project.

(i) The Project shall be managed in a manner consistent with prudent property management standards and in compliance with all state and local laws, ordinances and regulations relating thereto.

(j) Should involuntary noncompliance with the provisions of Regulations Section 1.103-8(b) be caused by fire, seizure, requisition, foreclosure, transfer of title by deed in lieu of foreclosure, change in a federal law or an action of a federal agency after the Closing Date which prevents the Governmental Lender from enforcing the requirements of the Code, or condemnation or similar event, the Borrower covenants that, within a "reasonable period" determined in accordance with the Regulations, and subject to the provisions of the Funding Loan

Agreement and the Project Loan Agreement, it will either prepay the Project Loan or apply any proceeds received as a result of any of the preceding events to reconstruct the Project to meet the requirements of Section 142(d) of the Code and the Regulations.

The Governmental Lender hereby elects to have the Project meet the requirements of Section 142(d)(1)(B) of the Code.

Section 4. Low Income Tenants; Records and Reports. Pursuant to the requirements of the Code and the Governmental Lender, the Borrower hereby represents, warrants and covenants as follows:

(a) The Project will be developed for the purpose of providing multifamily residential rental property, and the Borrower will own, manage and operate the Project as a project to provide multifamily residential rental property comprising a building or structure or several interrelated buildings or structures, together with any functionally related and subordinate facilities, and no other facilities in accordance with the Act, and in accordance with such requirements as may be imposed thereby on the Project from time to time.

(b) During the Compliance Period, no less than 40% of the total number of completed units of the Project shall at all times be rented to and occupied by Low Income Tenants. For the purposes of this subsection (b), a vacant unit which was most recently occupied by a Low Income Tenant is treated as rented and occupied by a Low Income Tenant until reoccupied, other than for a temporary period of not more than 31 days, at which time the character of such unit shall be redetermined. In determining whether the requirements of this subsection (b) have been met, fractions of units shall be treated as entire units.

(c) No tenant qualifying as a Low Income Tenant shall be denied continued occupancy of a unit in the Project because, after admission, such tenant's Adjusted Income increases to exceed the qualifying limit for Low Income Tenants; provided, however, that should a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceed 140% of the then applicable income limit for a Low Income Tenant of the same family size, the next available unit of comparable or smaller size must be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant; and provided further that, until such next available unit is rented to a tenant who is not a Low Income Tenant, the former Low Income Tenant who has ceased to qualify as such shall be deemed to continue to be a Low Income Tenant for purposes of the 40% requirement of paragraph (b) of this Section 4 (if applicable). If the Project consists of more than one building, this requirement shall apply on a building-by-building basis.

(d) The Borrower will obtain, complete and maintain on file Income Certifications from each Low Income Tenant, including (i) an Income Certification dated no later than the day prior to the initial occupancy of such Low Income Tenant in the Project and, in the case of tenants residing in the Project as of the date of issuance of the Series B-1 Governmental Note (if applicable), dated no later than the day prior to the disbursement of Series B-1 Governmental Note proceeds to fund acquisition and construction of the Project, and (ii) thereafter, annual Income Certifications, dated as of the anniversary date of each initial Income Certification, with respect to such Low Income Tenant. The Borrower will obtain such additional information as may be required in the future by the State, by the Governmental Lender and by Section 142(d) of the Code, as the same may be amended from time to time, or in such other form and manner as may be required by applicable rules, rulings, policies, procedures, Regulations or other official statements now or hereafter promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service with respect to obligations that are Tax-exempt under Section 142(d) of the Code. A copy of the most recent Income Certification for Low Income

Tenants commencing or continuing occupation of a Low Income Unit (and not previously filed with the Governmental Lender) shall be attached to the Certificate of Continuing Program Compliance that is to be filed with the Governmental Lender no later than January 31 of each year until the end of the Compliance Period. The Borrower shall make a good-faith effort to verify that the income information provided by an applicant in an Income Certification is accurate by obtaining the acceptable forms of verification enumerated in Chapter 3 of the most current, amended edition of HUD Handbook 4350.3, or such instruction by HUD that may supersede this handbook, and any additional documentation that the Governmental Lender shall deem relevant, such as the two most recent years' tax returns or other forms of independent verification reasonably acceptable to the Governmental Lender.

(e) The Borrower will maintain complete and accurate records pertaining to the Low Income Units, and will permit any duly authorized representative of the Governmental Lender, the Funding Lender, the Department of the Treasury or the Internal Revenue Service to inspect the books and records of the Borrower pertaining to the Project during regular business hours and upon reasonable notice, including those records pertaining to the occupancy of the Low Income Units.

(f) The Borrower will prepare and submit to the Governmental Lender and any Administrator (if other than the Governmental Lender) and the Fiscal Agent, no later than the fifteenth day of each month following the receipt by the Governmental Lender of the Completion Certificate to and including the month in which such report indicates that 40% of the occupied units (excluding units occupied by property managers) are occupied by Low Income Tenants, and thereafter no later than March 31 of each year for the prior calendar year (or at the Governmental Lender's request, at the end of each calendar quarter) until the end of the Compliance Period, a Certificate of Continuing Program Compliance executed by the Borrower.

(g) On or before each February 1 during the Compliance Period, the Borrower will submit to the Governmental Lender a draft of the completed Internal Revenue Service Form 8703 or such other annual certification required by the Code to be submitted to the Secretary of the Treasury as to whether the Project continues to meet the requirements of Section 142(d) of the Code. On or before each March 31 (or such other date as may be required by the Code), during the Compliance Period, the Borrower will submit such completed form to the Secretary of the Treasury, regardless of whether or not the Governmental Lender has responded to such draft, provided that at any point when no Tax-exempt private activity bonds are Outstanding with regards to the Project, but before the end of the Compliance Period, the Borrower may submit to the Governmental Lender (in the same manner specified above) such other annual certification as the Governmental Lender may reasonably require.

(h) Subject to the requirements of any Section 8 Housing Assistance Payments Contract with respect to the Project, each lease or rental agreement pertaining to a Low Income Unit shall contain a provision to the effect that the Borrower has relied on the Income Certification and supporting information supplied by the Low Income Tenant in determining qualification for occupancy of the Low Income Unit and that any material misstatement in such certification (whether or not intentional) will be cause for immediate termination of such lease or rental agreement. Each such lease or rental agreement shall also provide that the tenant's income is subject to annual certification in accordance with Section 4(c) hereof and to recertification if the number of occupants in the units changes for any reason (other than the birth of a child to an occupant of such unit) and that if upon any such certification such tenant's Adjusted Income exceeds 140% of the then applicable income limit for a Low Income Tenant of the same family

size, such tenant may cease to qualify as a Low Income Tenant, and such tenant's rent is subject to increase.

Section 5. Tax-exempt Status of the Series B-1 Governmental Note. The Borrower and the Governmental Lender make the following representations, warranties and agreements for the benefit of the Noteholder from time to time:

(a) The Borrower and the Governmental Lender will not knowingly take or permit actions within their control, or omit to take or cause to be taken, as is appropriate, any action that would adversely affect the Tax-exempt nature of the interest on the Series B-1 Governmental Note and, if either should take or permit, or omit to take or cause to be taken, any such action, it will take all lawful actions necessary to rescind or correct such actions or omissions promptly upon obtaining knowledge thereof.

(b) The Borrower and the Governmental Lender will take such action or actions as may be necessary, in the written opinion of Tax Counsel filed with the Governmental Lender, with a copy to the Borrower, Funding Lender and Fiscal Agent, to comply fully with all applicable rules, rulings, policies, procedures, Regulations or other official statements promulgated, proposed or made by the Department of the Treasury or the Internal Revenue Service pertaining to obligations the interest on which is Tax-exempt under Section 142(d) of the Code.

(c) The Borrower and the Governmental Lender will file or record such documents and take such other steps as are necessary, in the opinion of Tax Counsel, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project, including, but not limited to, the execution and recordation of this Regulatory Agreement in the real property records of the County of Santa Clara, California.

(d) The Borrower will not knowingly enter into any agreements which would result in the payment of principal or interest on the Series B-1 Governmental Note being "federally guaranteed" within the meaning of Section 149(b) of the Code.

(e) The Borrower hereby reaffirms the arbitrage certifications made by it in the Certificate as to Arbitrage executed in connection with the Series B-1 Governmental Note, and such certifications are hereby incorporated herein as covenants of the Borrower by this reference.

(f) The Borrower hereby covenants to include the requirements and restrictions contained in this Regulatory Agreement in any documents transferring any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions, and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

(g) The Borrower and any related party (as defined in Section 1.150-1(b) of the Regulations) thereto shall not acquire the Series B-1 Governmental Note or any interest therein in an amount related to the amount of the portion of the Funding Loan evidenced by the Series B-1 Governmental Note.

(h) The Borrower hereby agrees to comply with the requirements of Section 148(f) of the Code and to rebate excess investment earnings to the federal government.

(i) The Borrower shall assure that the proceeds of the Series B-1 Governmental Note are used in a manner such that the Series B-1 Governmental Note will satisfy the requirements of section 142(d) of the Code relating to qualified residential rental projects.

(j) The Borrower shall not take, or permit or suffer to be taken by the Fiscal Agent or otherwise, any action with respect to the proceeds of the Series B-1 Governmental Note that, if such action had been reasonably expected to have been taken, or had been deliberately and intentionally taken, on the date of issuance of the Series B-1 Governmental Note would have caused the Series B-1 Governmental Note to be an “arbitrage bond” within the meaning of section 148 of the Code.

(k) In accordance with Section 147(b) of the Code, the average maturity of the Series B-1 Governmental Note does not exceed 120% of the average reasonably expected economic life of the facilities being financed by the Series B-1 Governmental Note.

(l) The Borrower shall take all actions necessary to assure the exclusion of interest on the Series B-1 Governmental Note from the gross income of the Noteowner to the same extent as such interest is permitted to be excluded from gross income under the Code as in effect on the date of issuance of the Series B-1 Governmental Note.

(m) The Series B-1 Governmental Note upon issuance and delivery shall be considered a “private activity bond” within the meaning of the Code with respect to which CDLAC has transferred a portion of the State’s private activity bond allocation (within the meaning of section 146 of the Code) equal to the maximum principal amount of the Series B-1 Governmental Note.

(n) The Governmental Lender and the Borrower covenant that, from the proceeds of the Series B-1 Governmental Note and investment earnings thereon, an amount not in excess of 2% of the proceeds of the Series B-1 Governmental Note will be used for costs of issuance of the Series B-1 Governmental Note, all within the meaning of section 147(g)(1) of the Code. For this purpose, if the fees of the original purchaser of the Series B-1 Governmental Note are retained as a discount on the purchase of the Series B-1 Governmental Note, such retention shall be deemed to be an expenditure of proceeds of the Series B-1 Governmental Note for said fees.

(o) The Governmental Lender and the Borrower covenant that not less than 95% of the Net Proceeds of the Series B-1 Governmental Note (within the meaning of section 150(a)(3) of the Code) will be used to pay Qualified Project Costs.

(p) The Governmental Lender and the Borrower covenant that less than 25% of the proceeds of the Series B-1 Governmental Note shall be used, directly or indirectly, for costs of the acquisition of land.

(q) The Borrower covenants that no proceeds of the Series B-1 Governmental Note shall be used for the acquisition of any tangible property or an interest therein, other than land or an interest in land, unless the first use of such property is pursuant to such acquisition.

(r) The Governmental Lender and the Borrower covenant that no proceeds of the Series B-1 Governmental Note shall be used directly or indirectly to provide any airplane, skybox or other private luxury box, health club facility, facility used for gambling or store the principal business of which is the sale of alcoholic beverages for consumption off premises, and no portion of the proceeds of the Series B-1 Governmental Note shall be used for an office unless (i) the office is located on the premises of the facilities constituting the Project and (ii) not more than a

de minimis amount of the functions to be performed at such office is not related to the day-to-day operations of the Project.

(s) Upon completion of the Project (but in no event later than (i) eighteen months after the Project is placed in service or (ii) five years after the Closing Date, whichever occurs first), the Borrower shall prepare a final allocation of the proceeds of the Series B-1 Governmental Note that have been expended to the costs of the Project.

The Issuer, in making its representations set forth above, is relying exclusively on the representations, warranties and agreements of the Borrower made herein, in the Project Loan Agreement, and in the Certificate as to Arbitrage and the Certificate Regarding Use of Proceeds, both dated the Closing Date.

Section 6. Additional Requirements of the Act. The Borrower hereby further agrees that it shall comply with each of the requirements of Section 52080 of the Act, including (but not limited to) the following:

(a) Not less than 40% of the total number of units in the Project shall be available for occupancy on a priority basis to Low Income Tenants. The units made available to meet this requirement shall be of comparable quality (including comparable amenities, furnishings and appliances) and offer a range of sizes and numbers of bedrooms comparable to the units that are available to other tenants in the Project.

(b) The rental payments for the Low Income Units paid by the tenants thereof (excluding any supplemental rental assistance from the State, the federal government or any other public agency to those tenants or on behalf of those units) shall not exceed 30% of an amount equal to 60% of the median adjusted gross income for the Area.

(c) The Borrower shall accept as tenants, on the same basis as all other prospective tenants, low-income persons who are recipients of federal certificates or vouchers for rent subsidies pursuant to the existing program under Section 8 of the Housing Act. The Borrower shall not permit any selection criteria to be applied to Section 8 certificate or voucher holders that are more burdensome than the criteria applied to all other prospective tenants.

(d) The units reserved for occupancy as required by subsection (a) of this Section shall remain available on a priority basis for occupancy at all times during the Compliance Period.

(e) During the three (3) years prior to the expiration of the Compliance Period, the Borrower shall continue to make available to eligible households Low Income Units that have been vacated to the same extent that non-reserved units are made available to noneligible households.

(f) Following the expiration or termination of the Compliance Period, except in the event of foreclosure and repayment of the Governmental Notes, deed in lieu of foreclosure, eminent domain, or action of a federal agency preventing enforcement, units reserved for occupancy as required by subsection (a) of this Section shall remain available to any eligible tenant occupying a reserved unit at the date of such expiration or termination, at the rent determined by subsection (b) of this Section, until the earliest of (1) the household's income exceeds 140% of the maximum eligible income specified above, (2) the household voluntarily moves or is evicted for good cause (as defined in the Act), (3) 30 years after the date of the commencement of the Compliance

Period, or (4) the Borrower pays the relocation assistance and benefits to households as provided in Section 7264(b) of the California Government Code.

Notwithstanding Section 1461 of the California Civil Code, the provisions hereof shall run with the land and may be enforced either in law or in equity by any resident, local agency, entity or any other person adversely affected by the Borrower's failure to comply with this Regulatory Agreement.

Section 7. Additional Requirements of the Governmental Lender. In addition to the requirements set forth above and to the extent not prohibited thereby, the Borrower hereby agrees to comply with each of the requirements of the Governmental Lender set forth in this Section 7, as follows:

(a) On or before each May 10 prior to the end of the Compliance Period, commencing May 10, 2024, until the first May 10 following the repayment in full of the Governmental Notes, the Fiscal Agent shall provide to the Borrower the then-outstanding (i.e., then-drawn) principal amount of the Governmental Notes. Prior to the immediately following _____ [MONTH AND DATE OF CLOSING], the Borrower shall provide to the Governmental Lender a written calculation of (x) the outstanding principal amount of the Governmental Notes as of such June 1, multiplied by (y) 0.00125 (such result, the "Calculation Amount"). The Borrower shall pay or cause to be paid to the Governmental Lender, on _____, 2024 [FIRST ANNIVERSARY OF CLOSING DATE], the "Governmental Lender's Closing Fee" in an amount equal to the Calculation Amount. In addition, without demand or notice, the Owner shall pay or cause to be paid to the Governmental Lender (or other Administrator designated in writing by the Governmental Lender) an annual monitoring fee (the "Ongoing Governmental Lender's Fee"). The Ongoing Governmental Lender's Fee shall be in an annual amount equal to the Calculation Amount and shall be payable, in arrears, on _____ [SECOND ANNIVERSARY OF CLOSING DATE], and on each succeeding _____ [MONTH AND DATE OF CLOSING] thereafter so long as the Governmental Notes or any portion thereof remains outstanding, and from and after the first _____ [MONTH AND DATE OF CLOSING] following the repayment in full and discharge of the Governmental Notes, in an annual amount equal to 0.125% of the outstanding principal amount of the Series B-1 Governmental Note upon Conversion (pro-rated for the first such 12-month period during which the Series B-1 Governmental Note was no longer outstanding, as appropriate), subject to a minimum annual fee of \$7,500, and on each _____ [MONTH AND DATE OF CLOSING] thereafter throughout the remaining term of the Compliance Period.

(b) Under no circumstances shall the Ongoing Governmental Lender's Fee exceed any limitation under Section 148 of the Code. In the event that the Governmental Notes are paid in full and the Funding Loan Agreement discharged prior to the termination of this Regulatory Agreement (other than by reason of the issuance of refunding bonds), the Governmental Lender may, at its option, require the prepayment of the Ongoing Governmental Lender's Fee (a "Fee Prepayment") at such time as the Governmental Notes are paid in full and the Funding Loan Agreement is discharged; provided, however, that the Governmental Lender shall not require a Fee Prepayment in the event any such repayment of the Governmental Notes involves a repayment of the Series B-1 Governmental Note financed with the proceeds of Tax-exempt private activity refunding bonds or notes (i.e., no new CDLAC allocation is required and no re-syndication is simultaneously occurring) issued by the Governmental Lender pursuant to which the Governmental Lender receives a new annual city fee for the duration of the Compliance Period. The amount due upon a Fee Prepayment will be a lump sum amount calculated by the Governmental Lender as the present value of the Ongoing Governmental Lender's Fees due from the date of the Fee Prepayment through the end of the Compliance Period (the "Forgone Fees"),

using a discount rate equal to the most recent Local Agency Investment Fund (LAIF) Quarterly Apportionment Rate published by the Office of the California State Treasurer. For clarity and consistency, the Forgone Fees will be calculated assuming that there are no changes to the definition of Compliance Period.

(c) Notwithstanding the foregoing paragraph, the Governmental Lender will, in the event the Governmental Lender issues new Tax-exempt private activity bonds in connection with a re-syndication of the Project, consider the financial impacts of a Fee Prepayment in establishing the annual fees for the re-syndicated transaction (taking into consideration the fee discounts previously given by the Governmental Lender at the time of issuance of the Governmental Notes), and may, in its sole and absolute discretion, waive any or all of the Fee Prepayment. For the avoidance of doubt, this paragraph is not applicable when the Governmental Lender is not the issuer of bonds in connection with a re-syndication of the Project.

(d) All tenant lists, applications and waiting lists relating to the Project shall at all times be kept separate and identifiable from any other business of the Borrower and shall be maintained as required by the Governmental Lender, in a reasonable condition for proper audit and subject to examination during business hours by representatives of the Governmental Lender (including the Administrator).

(e) The Borrower shall submit to the Governmental Lender, within 15 days after receipt of a request therefor, any information, records or completed forms requested by the Governmental Lender in order to comply with reporting requirements of the Internal Revenue Service, the State or CDLAC with respect to the Project.

(f) The Borrower shall not discriminate on the basis of race, creed, color, religion, sex, sexual orientation, gender identity, age, marital status, national origin, ancestry or handicap in the lease, use or occupancy of the Project or in connection with the employment or application for employment of persons for the construction, operation or management of the Project, and will not discriminate on the basis of household size as long as the tenants meet the household size standards of Section 8 of the Housing Act. Further, the Borrower shall not permit occupancy in any unit in the Project by more persons than is permissible under the Section 8 household size standards.

(g) The Borrower acknowledges that the Governmental Lender may appoint an Administrator other than the Governmental Lender to administer this Regulatory Agreement and to monitor performance by the Borrower of the terms, provisions and requirements hereof. In such event, the Borrower shall comply with any reasonable request by the Governmental Lender to deliver to any such Administrator, in addition to or instead of the Governmental Lender, any reports, notices or other documents required to be delivered pursuant hereto, and to make the Project and the books and records with respect thereto available for inspection by the Administrator as an agent of the Governmental Lender.

(h) To the extent permitted by law and regulations (including but not limited to applicable California Tax Credit Allocation Committee regulations and the requirements of Section 42 of the Code), and subject to the limitations and restrictions set forth in any housing assistance payment contract for the Project under Section 8 of the Housing Act, the Borrower will make the units reserved pursuant to Section 4(a) and Section 6(a) available on a priority basis to households comprised of Low Income Tenants whom (i) the Governmental Lender has informed the Borrower have been displaced by the Governmental Lender or its political subdivisions from other developments located within the City, or (ii) are currently living or working in the City or

who can demonstrate they previously resided in the City. The Borrower shall not discriminate against tenant applicants on the basis of source of income (i.e., TANF or SSI), and the Borrower shall consider a prospective tenant's previous rent history of at least one year as evidence of such tenant's ability to pay the applicable rent for the unit to be occupied (ability to pay shall be demonstrated if the tenant can show that the tenant has paid on time the same percentage or more of the tenant's income for rent as the tenant would be required to pay for the rent applicable to the unit to be occupied); provided that such tenant paid the same percentage or more of such tenant's income for rent as such tenant will be paying under the proposed lease. The Borrower may consider such factors as it deems important when reviewing and approving a tenant's application for occupancy and an existing tenant's continued occupancy.

(i) If a Low Income Tenant's Adjusted Income, as of the most recent determination thereof, exceeds 140% of the applicable income limit for a Low Income Tenant of the same family size, the unit's rent may be subject to increase and the tenancy of such Low Income Tenant shall, to the extent permitted under the requirements of Section 42 of the Code, be terminated as soon as legally possible and the available unit shall within a reasonable time be rented to (or held vacant and available for immediate occupancy by) a Low Income Tenant.

(j) Each of the requirements of Sections 3, 4 and 6 hereof is hereby incorporated as a specific requirement of the Governmental Lender, whether or not required by State or federal law, and shall be in force for the term of this Regulatory Agreement.

(k) The Borrower agrees to maintain the Project, or cause the Project to be maintained, during the term of this Regulatory Agreement (i) in a safe condition and (ii) in good repair and good operating condition, ordinary wear and tear excepted, making from time to time all necessary repairs thereto and renewals and replacements thereof such that the Project is in good repair and operating condition.

(l) The Borrower will pay the Governmental Lender all of the amounts required by Section 7(a) hereof and the Project Loan Agreement (and that have not otherwise been assigned to the Funding Lender under the Funding Loan Agreement) and will indemnify the Governmental Lender and the Fiscal Agent as provided in Section 6.01 of the Project Loan Agreement.

(m) The requirements of this Section 7 of this Regulatory Agreement shall be in effect for the term of this Regulatory Agreement; provided that any requirements of Section 7 of this Regulatory Agreement may be expressly waived by the Governmental Lender, at its sole discretion, in writing, but (i) no waiver by the Governmental Lender of any requirement of this Section 7 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel to the effect that any such other provision is not required by the Act and may be waived without adversely affecting the exclusion from gross income of the Noteowner of the interest on the Series B-1 Governmental Note for federal income tax purposes; and (ii) any requirement of this Section 7 shall be void and of no force and effect if the Governmental Lender and the Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Series B-1 Governmental Note to cease to be Tax-exempt or to the effect that compliance with such requirement would be in conflict with the Act or any other applicable State or federal law.

(n) The Borrower acknowledges Section 11.11 of the Funding Loan Agreement and agrees to comply with any reasonable request made by the Governmental Lender to assist the

Governmental Lender in preserving or “recycling” private activity volume cap in accordance with Section 146(i)(6) of the Code.

Section 8. Modification of Covenants. The Borrower and the Governmental Lender hereby agree as follows:

(a) To the extent any amendments to the Act, the Regulations or the Code shall, in the written opinion of Tax Counsel filed with the Governmental Lender, Fiscal Agent, Funding Lender and Borrower, impose requirements upon the ownership or operation of the Project more restrictive than those imposed by this Regulatory Agreement in order to maintain the Tax-exempt status of interest on the Series B-1 Governmental Note, this Regulatory Agreement shall be deemed to be automatically amended, without the consent or approval of any other person, to impose such additional or more restrictive requirements.

(b) To the extent that the Act, the Regulations or the Code, or any amendments thereto, shall, in the written opinion of Tax Counsel filed with the Governmental Lender, Fiscal Agent, Funding Lender and Borrower, impose requirements upon the ownership or operation of the Project less restrictive than imposed by this Regulatory Agreement, this Regulatory Agreement may be amended or modified to provide such less restrictive requirements but only by written amendment signed by the Governmental Lender, at its sole and absolute discretion, and the Borrower and only upon receipt of the written opinion of Tax Counsel to the effect that such amendment is permitted by the Act, is otherwise in accordance with Section 22 hereof and will not adversely affect the Tax-exempt status of interest on the Series B-1 Governmental Note. The Governmental Lender shall be under no obligation to agree to any such amendment, it being understood that each of the requirements of this Regulatory Agreement is a specific requirement of the Governmental Lender, whether or not required by State or federal law.

(c) The Borrower and the Governmental Lender shall execute, deliver and, if applicable, file or record any and all documents and instruments necessary to effectuate the intent of this Section 8, and each of the Borrower and the Governmental Lender hereby appoints the Fiscal Agent as its true and lawful attorney-in-fact (jointly or individually) to execute, deliver and, if applicable, file or record on behalf of the Governmental Lender or Borrower, as applicable, any such document or instrument (in such form as may be approved in writing by Tax Counsel) if either the Borrower or the Governmental Lender defaults in the performance of its obligations under this subsection (c); provided, however, that unless directed in writing by the Governmental Lender or the Borrower, the Fiscal Agent shall take no action under this subsection (c) without first notifying the Governmental Lender and the Borrower or both of them as applicable and the Funding Lender, and without first providing the Governmental Lender or the Borrower, or both of them, as is applicable, an opportunity to comply with the requirements of this Section 8. Nothing in this Section 8(c) shall be construed to allow the Fiscal Agent to execute an amendment to this Regulatory Agreement on behalf of the Governmental Lender.

Section 9. Indemnification; Other Payments. The Borrower hereby covenants and agrees that it shall indemnify and hold harmless the Governmental Lender and the Fiscal Agent and their respective officers, Councilmembers, directors, officials, employees and agents as set forth in Section 6.01 of the Project Loan Agreement.

In addition thereto, the Borrower will pay upon demand all of the fees and expenses paid or incurred by the Funding Lender, the Fiscal Agent and/or the Governmental Lender in enforcing the provisions of this Regulatory Agreement.

The provisions of this Section 9 shall survive the term of the Governmental Notes and this Regulatory Agreement; provided, however, the provisions of this Section shall, in the case of the Fiscal Agent, survive the term of this Regulatory Agreement or the resignation or removal of the Fiscal Agent, but only as to claims arising from events occurring during the term of this Regulatory Agreement or the Fiscal Agent's tenure as Fiscal Agent under the Funding Loan Agreement, and shall, in the case of the Governmental Lender, survive the term of this Regulatory Agreement, but only as to claims arising from events occurring during the term of this Regulatory Agreement.

The Governmental Lender agrees that no owner of the Project subsequent to the Borrower will be liable for, assume or take title to the Project subject to:

(a) any failure of any prior owner of the Project to perform or observe any representation or warranty, affirmative or negative covenant or other agreement or undertaking under this Regulatory Agreement; and

(b) the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by any prior owner of the Project under this Regulatory Agreement.

The Borrower and each subsequent owner of the Project shall be responsible under this Regulatory Agreement for its own acts and omissions occurring during the period of its ownership of the Project. All such liability and obligations shall be and remain personal to such person even after such person ceases to be the owner of the Project.

Inasmuch as the covenants, reservations and restrictions of this Regulatory Agreement run with the land, the indemnification obligations of the Borrower contained in this Regulatory Agreement will be deemed applicable to any successor in interest to the Borrower.

Section 10. Consideration. The Governmental Lender has agreed to issue the Governmental Notes to provide funds to finance a portion of the costs of the construction of the Project, all for the purpose, among others, of inducing the Borrower to construct, equip and operate the Project. In consideration of the issuance of the Governmental Notes by the Governmental Lender, the Borrower has entered into this Regulatory Agreement and has agreed to restrict the uses to which this Project can be put on the terms and conditions set forth herein.

Section 11. Reliance. The Governmental Lender and the Borrower hereby recognize and agree that the representations and covenants set forth herein may be relied upon by all persons interested in the legality and validity of the Governmental Notes and in the exemption from federal income taxation of the interest on the Series B-1 Governmental Note and State personal income taxation of the interest on the Governmental Notes. In performing their duties and obligations hereunder, the Governmental Lender and any Administrator may rely upon statements and certificates of the Low Income Tenants and upon audits of the books and records of the Borrower pertaining to the Project. In addition, the Governmental Lender may consult with counsel, and the written opinion of such counsel shall be full and complete authorization and protection in respect of any action taken or suffered by the Governmental Lender hereunder in good faith and in conformity with such opinion. In determining whether any default or lack of compliance by the Borrower exists under this Regulatory Agreement, the Governmental Lender may, but shall not be required to, conduct any investigation into or review of the operations or records of the Borrower and may rely solely on any written notice or certificate delivered to the Governmental Lender by the Borrower with respect to the occurrence or absence of a default unless it knows that the notice or certificate is erroneous or misleading.

Section 12. Project in the City. The Borrower hereby represents and warrants that the Project is located entirely within the City.

Section 13. Sale or Transfer of the Project. For the Compliance Period, the Borrower shall not, except for a conveyance of the Project to Charities Housing Development Corporation of Santa Clara County or another 501(c)(3) affiliate of the Borrower's general partner in accordance with a purchase option or right of first refusal and except as otherwise provided below, sell, transfer or otherwise voluntarily dispose of the Project, in whole or in part, without the prior written consent of the Governmental Lender, which consent shall not be unreasonably withheld or delayed if the following conditions are satisfied:

(a) the Governmental Lender has received evidence, reasonably acceptable to the Governmental Lender, that:

(i) the Borrower is not in default hereunder or under the Project Loan Agreement (which may be evidenced by a Certificate of Continuing Program Compliance) or the purchaser or assignee undertakes to cure any defaults of the Borrower to the reasonable satisfaction of the Governmental Lender;

(ii) the continued operation of the Project complies with the provisions of this Regulatory Agreement;

(iii) either (A) the purchaser or assignee or its property manager has at least three years' experience in the ownership, operation and management of similar size rental housing projects, and at least one year's experience in the ownership, operation and management of rental housing projects containing below-market-rate units, without any record of material violations of discrimination restrictions or other State or federal laws or regulations or local governmental requirements applicable to such projects, or (B) the purchaser or assignee agrees to retain a property management firm with the experience and record described in subclause (A) above, or (C) the transferring Borrower or its management company will continue to manage the Project for at least one year following such transfer and during such period will provide training to the transferee and its manager in the responsibilities relating to the Low Income Units; and

(iv) the person or entity that is to acquire the Project does not have pending against it, and does not have a history of significant and material building code violations or complaints concerning the maintenance, upkeep, operation, and regulatory agreement compliance of any of its projects as identified by any local, State or federal regulatory agencies;

(b) the execution by the purchaser or assignee of any document reasonably requested by the Governmental Lender with respect to the assumption of the Borrower's obligations under this Regulatory Agreement and, if either of the Governmental Notes is outstanding at the time of transfer, the Project Loan Agreement, including without limitation an instrument of assumption hereof and thereof, and delivery to the Governmental Lender of an opinion of such purchaser or assignee's counsel to the effect that each such document and this Regulatory Agreement are valid, binding and enforceable obligations of such purchaser or assignee, subject to bankruptcy and other standard limitations affecting creditor's rights;

(c) receipt by the Governmental Lender of an opinion of Tax Counsel to the effect that any such sale, transfer or other disposition will not adversely affect the Tax-exempt status of interest on the Series B-1 Governmental Note;

(d) receipt by the Governmental Lender and Fiscal Agent of all fees and/or expenses then currently due and payable to the Governmental Lender and Fiscal Agent under any of the Loan Documents (as defined in the Funding Loan Agreement); and

(e) receipt by the Governmental Lender of evidence of satisfaction of compliance with the provisions of Section 29(d)(i) related to notice to CDLAC of transfer of the Project.

It is hereby expressly stipulated and agreed that any sale, transfer or other disposition of the Project in violation of this Section 13, other than pursuant to a foreclosure or deed in lieu of foreclosure following a default under the Project Loan Agreement shall be null, void and without effect, cause a reversion of title to the Borrower, and be ineffective to relieve the Borrower of its obligations under this Regulatory Agreement. Nothing in this Section shall affect any provision of any other document or instrument between the Borrower and any other party that requires the Borrower to obtain the prior written consent of such other party in order to sell, transfer or otherwise dispose of the Project.

The written consent of the Governmental Lender to any transfer of the Project shall constitute conclusive evidence that the transfer is not in violation of this Section 13. Upon any sale or other transfer that complies with this Regulatory Agreement, the Borrower shall be fully released from its obligations hereunder to the extent such obligations have been fully assumed in writing by the transferee of the Project. Except as otherwise provided herein, any transfer of the Project to any entity, whether or not affiliated with the Borrower, shall be subject to the provisions of this Section 13, except as provided immediately below.

Interests in the Borrower may not be transferred without the prior written consent of the Governmental Lender (which consent will not be unreasonably withheld), except as follows:

(i) transfers of the respective interests of the Borrower's limited partner(s) to any entity that is either (A) an affiliate of any limited partner, (B) controlled by, or under common control with, the Equity Investor or any affiliate thereof, or (C) the general partner of the Borrower or an affiliate of the general partner of the Borrower, provided that in the event of a transfer to the general partner of the Borrower or an affiliate of the general partner of the Borrower (except as described in clause (v) below), the Borrower provides evidence satisfactory to the Governmental Lender that the transfer of such interest or interests will not have a material adverse effect on the operation or finances of the Project;

(ii) transfers of interests among the Borrower's limited partners;

(iii) the pledge and encumbrance of the interest of Borrower's limited partners to or for the benefit of any financial institution that enables the limited partner(s) to make capital contributions to the Borrower;

(iv) the removal, or withdrawal in lieu of removal, of a general partner of Borrower by a limited partner for cause, provided that the Governmental Lender shall have the right to approve or disapprove any new general partner within 90 days after replacement of the existing general partner (with such approval not being unreasonably withheld); or

(v) a transfer to Charities Housing Development Corporation of Santa Clara County or another 501(c)(3) affiliate of the Borrower's general partner in accordance with a purchase option or right of first refusal.

The Borrower acknowledges that a sale or exchange of 50% or more of the capital and profits interests in the Borrower in any twelve-month period will be treated for federal tax purposes as a change in ownership of the Project at the time the 50% transfer occurs. The Borrower further acknowledges that there is a possibility of some or all of the Series B-1 Governmental Note being reissued at various points in the financing, including in connection with any remarketing, and that a change in ownership of the Project within six months of a reissuance or refunding of the Series B-1 Governmental Note will cause the interest paid on the reissued or refunding bonds not to be excluded from gross income for federal tax purposes.

Restrictions on sale or transfer of the Project or of any interest in the Borrower, consent of the Governmental Lender, transfer agreements, transferee criteria and requirements, opinion requirements, assumption fees, transfer fees, penalties and the like shall not apply to any transfer of title to the Project to the Funding Lender or a third party by foreclosure, deed in lieu of foreclosure or comparable conversion of the Project Loan or to any subsequent transfer by the Funding Lender following foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan. Except as provided in Section 13, no such transfer of the Project shall operate to release the Borrower from its obligations under this Regulatory Agreement.

For the Compliance Period, the Borrower shall not: (1) encumber any of the Project or grant commercial leases of any part thereof, or permit the conveyance, transfer or encumbrance of any part of the Project, except pursuant or subordinate to the provisions of this Regulatory Agreement, and upon receipt by the Governmental Lender, Fiscal Agent and Funding Lender (at the expense of the Borrower) of an opinion of Tax Counsel to the effect that such action will not adversely affect the Tax-exempt status of interest on the Series B-1 Governmental Note, or except upon a sale, transfer or other disposition of the Project in accordance with the terms of this Regulatory Agreement; (2) demolish any part of the Project or substantially subtract from any real or personal property of the Project, except to the extent that what is removed is replaced with comparable property; or (3) permit the use of the dwelling accommodations of the Project for any purpose except rental residences.

Section 14. Term. This Regulatory Agreement and all and several of the terms hereof shall become effective upon its execution and delivery, and shall remain in full force and effect for the Compliance Period and, except as provided in Section 6(f) hereof, shall terminate at the end of the Compliance Period, it being expressly agreed and understood that the provisions hereof are intended to survive the retirement of the Governmental Notes and discharge of the Funding Loan Agreement and the Project Loan Agreement.

The terms of this Regulatory Agreement notwithstanding, the requirements of this Regulatory Agreement shall terminate and be of no further force and effect (i) in the event of involuntary noncompliance with the provisions of this Regulatory Agreement caused by fire, seizure, requisition, change in a federal law or an action of a federal agency after the Closing Date that prevents the Governmental Lender from enforcing such provisions, or condemnation or (ii) foreclosure, transfer of title by deed in lieu of foreclosure (whereby a third party shall take possession of the Project), or a similar event, but only if, in the case of either (i) or (ii), within a reasonable period, either the Governmental Notes are retired or amounts received as a consequence of such event are used to provide a project that meets the requirements hereof; provided, however, that the preceding provisions of this sentence shall cease to apply and the restrictions contained herein shall be reinstated if, at any time subsequent to the termination of such provisions as the result of the foreclosure or the delivery of a deed in lieu of

foreclosure or a similar event, the Borrower or any related person (within the meaning of Section 1.103-10(e) of the Regulations) obtains an ownership interest in the Project for federal income tax purposes. The Borrower hereby agrees that, following any foreclosure, transfer of title by deed in lieu of foreclosure or similar event, neither the Borrower nor any such related person as described above will obtain an ownership interest in the Project for federal tax purposes. Notwithstanding any other provision of this Regulatory Agreement, this Regulatory Agreement may be terminated upon agreement by the Governmental Lender and the Borrower, upon receipt by the Governmental Lender and the Funding Lender of an opinion of Tax Counsel to the effect that such termination will not adversely affect the exclusion from gross income of interest on the Series B-1 Governmental Note for federal income tax purposes. Upon the termination of the terms of this Regulatory Agreement, the parties hereto agree to execute, deliver and record appropriate instruments of release and discharge of the terms hereof; provided, however, that the execution and delivery of such instruments shall not be necessary or a prerequisite to the termination of this Regulatory Agreement in accordance with its terms.

Section 15. Covenants To Run With the Land. Notwithstanding Section 1461 of the California Civil Code, the Borrower hereby subjects the Project (including the Project Site) to the covenants, reservations and restrictions set forth in this Regulatory Agreement. The Governmental Lender and the Borrower hereby declare their express intent that the covenants, reservations and restrictions set forth herein shall be deemed covenants running with the land and shall pass to and be binding upon the Borrower's successors in title to the Project; provided, however, that on the termination of this Regulatory Agreement said covenants, reservations and restrictions shall expire. Each and every contract, deed or other instrument hereafter executed covering or conveying the Project or any portion thereof shall conclusively be held to have been executed, delivered and accepted subject to such covenants, reservations and restrictions, regardless of whether such covenants, reservations and restrictions are set forth in such contract, deed or other instruments.

Section 16. Burden and Benefit. The Governmental Lender and the Borrower hereby declare their understanding and intent that the burden of the covenants set forth herein touch and concern the land in that the Borrower's legal interest in the Project is rendered less valuable thereby. The Governmental Lender and the Borrower hereby further declare their understanding and intent that the benefit of such covenants touch and concern the land by enhancing and increasing the enjoyment and use of the Project by Low Income Tenants, the intended beneficiaries of such covenants, reservations and restrictions, and by furthering the public purposes for which the Governmental Notes were issued.

Section 17. Uniformity; Common Plan. The covenants, reservations and restrictions hereof shall apply uniformly to the entire Project in order to establish and carry out a common plan for the use, development and improvement of the Project Site.

Section 18. Default; Enforcement.

(a) If the Borrower defaults in the performance or observance of any covenant, agreement or obligation of the Borrower set forth in this Regulatory Agreement, and if such default remains uncured for a period of 60 days after written notice thereof shall have been given by the Governmental Lender to the Borrower, and to the Borrower's limited partner(s) at the addresses set forth herein, or for a period of 60 days from the date the Borrower should, with reasonable diligence, have discovered such default, then the Governmental Lender shall declare an "Event of Default" to have occurred hereunder; provided, however, that if the default is of such a nature that it cannot be corrected within 60 days, such default shall not constitute an Event of Default hereunder so long as (i) the Borrower institutes corrective action within said 60 days and diligently pursues such action until the default is corrected and (ii) in the opinion of Tax Counsel, the failure to cure said default within 60 days will not adversely affect the Tax-exempt status of interest on the Series B-1 Governmental Note. The Governmental Lender hereby consents to

any correction of a default on the part of the Borrower hereunder made by a limited partner of the Borrower on behalf of the Borrower within the time periods provided in this Section. The Governmental Lender shall have the right to enforce the obligations of the Borrower under this Regulatory Agreement within shorter periods of time than are otherwise provided herein if necessary to ensure compliance with the Act or the Code.

(b) Following the declaration of an Event of Default hereunder, Governmental Lender may, at its option, take any one or more of the following steps in addition to all other remedies provided by law or equity:

(i) by mandamus or other suit, action or proceeding at law or in equity, including injunctive relief, require the Borrower to perform its obligations and covenants hereunder or enjoin any acts or things which may be unlawful or in violation of the rights of the Governmental Lender hereunder;

(ii) have access to and inspect, examine and make copies of all or any portion of the books and records of the Borrower pertaining to the Project;

(iii) require the Borrower to pay to the Governmental Lender an amount equal to the excess rent or other amounts received by the Borrower for any units in the Project that were in violation of this Regulatory Agreement during the period such violation continued (which payment shall not reduce the amount due under the Project Loan);

(iv) declare a default under the Project Loan Agreement and proceed with any remedies provided therein; and

(v) take such other action at law or in equity as may appear necessary or desirable to enforce the obligations, covenants and agreements of the Borrower hereunder.

(c) The Borrower hereby agrees that specific enforcement of the Borrower's agreements contained herein is the only means by which the Governmental Lender may fully obtain the benefits of such agreements made by the Borrower herein, and the Borrower therefore agrees to the imposition of the remedy of specific performance against it in the case of any Event of Default by the Borrower hereunder.

(d) All fees, costs and expenses of the Governmental Lender incurred in taking any action pursuant to this Section shall be the sole responsibility of the Borrower, and shall be paid by the Borrower promptly following written demand of the Governmental Lender delivered to the Borrower.

(e) Notwithstanding anything contained in this Regulatory Agreement to the contrary:

(i) The occurrence of an event of default under this Regulatory Agreement shall not under any circumstances whatsoever, be or be deemed to be a default under the Project Loan Documents, except as may be otherwise specified in the Project Loan Documents.

(ii) The Governmental Lender, upon the occurrence of an event of default under this Regulatory Agreement, may not seek, in any manner, to (i) cause or direct acceleration of the Project Loan, (ii) cause the Fiscal Agent to prepay the Governmental Notes or to declare the principal of the Governmental Notes and the interest accrued on the Governmental Notes to be immediately due and payable or (iii) cause the Fiscal Agent to take any other action under any of the Project Loan Documents, any of the Financing Documents or any other documents which

action would or could have the effect of achieving any one or more of the actions, events or results described in the preceding clauses (i) and (ii); and

(iii) Subject to the provisions of the Project Loan Agreement, under no circumstances shall the Governmental Lender: (i) initiate or take any action which may have the effect, directly or indirectly, of impairing the ability of the Borrower to timely pay the principal of, interest on, or other amounts due and payable under, the Project Loan; or (ii) upon the occurrence of an event of default under the Project Loan Documents, take any action to accelerate or otherwise enforce payment or seek other remedies with respect to the Project Loan Documents.

The foregoing prohibitions and limitations are not intended to limit the rights of the Governmental Lender to specifically enforce this Regulatory Agreement or to seek injunctive relief in order to provide for the operation of the Project in accordance with the requirements of the Act, the Code and other applicable State law. Accordingly, upon any default by the Borrower, the Governmental Lender may seek specific performance of this Regulatory Agreement or to enjoin acts that may be in violation of this Regulatory Agreement or that otherwise are unlawful, so long as the Project Loan has not been repaid in full, no obligation of the Borrower under this Regulatory Agreement, including, without limitation, any indemnification obligation, any other obligation for the payment of money, any claim and any judgment for monetary damages against the Borrower, occasioned by breach or alleged breach by the Borrower of its obligations under this Regulatory Agreement or otherwise, shall be secured by or in any manner constitute a lien on, or security interest in, the Project, whether in favor of the Governmental Lender, the Fiscal Agent or any other person, and all such obligations (except as specified in Section 7 of this Regulatory Agreement) shall be, and by this Regulatory Agreement are, subordinate in priority, in right to payment and in all other respects to the obligations, liens, rights (including without limitation the right to payment) and interests arising or created under the Project Loan Documents. Accordingly, so long as the Project Loan has not been repaid in full, neither the Governmental Lender nor the Fiscal Agent shall have the right to enforce any monetary obligation other than directly against the Borrower, without recourse to the Project. In addition, so long as the Project Loan has not been repaid in full, any such enforcement must not cause the Borrower to file a petition seeking reorganization, arrangement, adjustment or composition of or in respect of the Borrower under any applicable liquidation, insolvency, bankruptcy, rehabilitation, composition, reorganization, conservation or other similar law in effect now or in the future.

The occurrence of a Determination of Taxability shall not, in and of itself, constitute a default hereunder.

Section 19. Third-Party Beneficiaries. CDLAC, the Fiscal Agent and the Funding Lender are intended to be and shall be third-party beneficiaries of this Regulatory Agreement. CDLAC, the Fiscal Agent and the Funding Lender each shall have the right (but not the obligation) to enforce the provisions of this Regulatory Agreement against the Borrower and to pursue an action for specific performance or other available remedy at law or in equity in accordance with Section 18 hereof; provided that any such action or remedy shall not materially adversely affect the interests and rights of the Governmental Lender or the Noteowner.

Section 20. Recording and Filing.

(a) The Borrower shall cause this Regulatory Agreement, and all amendments and supplements hereto and thereto, to be recorded and filed in the real property records of the County of Santa Clara, California, and in such other places as the Governmental Lender may reasonably request. The Borrower shall pay all fees and charges incurred in connection with any such recording. This Regulatory

Agreement shall be recorded in the grantor-grantee index to the name of the Borrower as grantor and the Governmental Lender as grantee.

(b) The Borrower and the Governmental Lender will file of record such other documents and take such other steps as are reasonably necessary, in the opinion of Tax Counsel, in order to ensure that the requirements and restrictions of this Regulatory Agreement will be binding upon all owners of the Project.

(c) The Borrower hereby covenants to include or reference the requirements and restrictions contained in this Regulatory Agreement in any documents executed and delivered in connection with a voluntary transfer of any interest in the Project to another person to the end that such transferee has notice of, and is bound by, such restrictions and to obtain the agreement from any transferee to abide by all requirements and restrictions of this Regulatory Agreement.

Section 21. Governing Law. This Regulatory Agreement shall be governed by the laws of the State applicable to contracts made and performed in the State, and any legal action brought hereunder must be instituted in a court located within the County of Santa Clara, California.

Section 22. Amendments. Except as provided in Section 8 and Section 29(e), this Regulatory Agreement shall be amended only by a written instrument executed by the parties hereto or their successors in title, and duly recorded in the real property records of the County of Santa Clara, California, and only upon receipt by the Governmental Lender of an opinion from Tax Counsel that such amendment will not adversely affect the Tax-exempt status of interest on the Series B-1 Governmental Note and is not contrary to the provisions of the Act.

The Governmental Lender and the Borrower hereby agree to amend this Regulatory Agreement to the extent required, in the opinion of Tax Counsel (subject to the approval of the City Attorney of the Governmental Lender), in order that interest on the Series B-1 Governmental Note remains Tax-exempt. The party or parties requesting such amendment shall notify the other parties to this Regulatory Agreement of the proposed amendment, with a copy of such requested amendment to Tax Counsel and the City Attorney of the Governmental Lender and a request that such Tax Counsel render to the Governmental Lender an opinion as to the effect of such proposed amendment upon the Tax-exempt status of interest on the Series B-1 Governmental Note.

This provision shall not be subject to any provision of any other agreement requiring any party hereto to obtain the consent of any other person in order to amend this Regulatory Agreement.

Any waiver of, or consent to, any condition under this Regulatory Agreement must be expressly made in writing.

Section 23. Notices. Any notice required to be given hereunder shall be made in writing and shall be given by personal delivery, overnight delivery, certified or registered mail, postage prepaid, return receipt requested, or by telecopy, in each case at the respective addresses specified below, or at such other addresses as may be specified in writing by the parties hereto:

If to the Governmental Lender: City of San José, California
Finance Department
200 East Santa Clara Street, 13th Floor Tower
San José, California 95113-1905
Attention: Debt Management
Email: debt.management@sanjoseca.gov

with a copy to
(which shall not constitute notice
to the Governmental Lender): City of San José, California
Department of Housing
200 East Santa Clara Street, 12th Floor Tower
San José, California 95113-1905
Attention: Director of Housing
Facsimile: (408) 998-3183

and a copy to
(which shall not constitute notice
to the Governmental Lender): City of San José, California
200 East Santa Clara Street, 16th Floor Tower
San José, California 95113
Attention: Housing Attorney
Facsimile: (408) 998-3131

If to the Borrower: Keyes, L.P.
c/o Charities Housing Development Corporation of
Santa Clara County
1400 Parkmoor Avenue, Suite 190
San Jose José California 95126
Attention: Executive Director

with a copy to: Gubb & Barshay LLP
235 Montgomery Street, Suite 1110
San Francisco, California 94104
Attention: Lauren B, Fechter, Esq.

and a copy to: Wells Fargo Affordable Housing Corp.
550 S. Tryon Street
23rd Floor, D1086-239
Charlotte, North Carolina 28202-4200
Attention: Director of Tax Credit Asset
Management

If to the Equity Investor:
with a copy to: Pillsbury Winthrop Shaw Pittman LLP
1200 17th Street, NW
Washington, D.C. 20036
Attention: Craig A. de Ridder, Esq.

If to the Funding Lender (during the Construction Phase):

Wells Fargo Affordable Housing Community
550 S. Tryon Street
23rd Floor, D1086-239
Charlotte, North Carolina 28202-4200
Attention: Manager, Deal Management
Loan No. 1021433

With a copy to:

Wells Fargo Bank, National Association
Community Lending and Investment
MAC# A0101-069
420 Montgomery Street, 6th Floor
San Francisco, California 94104-1207
Attention: Lori Saito
Loan No. 10231433

with a copy to:

FisherBroyles, LLP
3777 Long Beach Boulevard, Suite 280
Long Beach, California 90807
Attention: Caroline Woolsey, Esq.
Telephone: (213) 457-7226

If to the Funding Lender (during the Permanent Phase):

California Community Reinvestment Corporation
100 West Broadway, Suite 1000
Glendale, California 91210
Attention: President

with a copy to:

FisherBroyles, LLP
3777 Long Beach Boulevard, Suite 280
Long Beach, California 90807
Attention: Caroline Woolsey, Esq.
Telephone: (213) 457-7226

If to the Fiscal Agent:

U.S. Bank Trust Company, National Association
One California Street, Suite 1000
Mail Code: SF-CA-SFCT
San Francisco, California 94111
Attention: Andrew Fung, Vice President
Facsimile: (415) 677-3769
Email: Andrew.fung@usbank.com

If to CDLAC:

California Debt Limit Allocation Committee
Room 311
915 Capitol Mall
Sacramento, California 95814
Attention: Executive Director

Except as provided in the next paragraph, notice shall be deemed given three Business Days after the date of mailing.

Any of the foregoing parties may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates, documents or other communications shall be sent.

Notice shall be deemed given on the date evidenced by the postal or courier receipt or other written evidence of delivery or electronic transmission; provided that any telecopy or other electronic transmission received by any party after 4:00 p.m., local time of the receiving party, as evidenced by the time shown on such transmission, shall be deemed to have been received the following Business Day.

Section 24. Severability. If any provision of this Regulatory Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining portions hereof shall not in any way be affected or impaired thereby.

Section 25. Multiple Counterparts. This Regulatory Agreement may be simultaneously executed in multiple counterparts, all of which shall constitute one and the same instrument, and each of which shall be deemed to be an original.

Section 26. Payment of Fees. Notwithstanding any prepayment of the Project Loan or the discharge of the Project Loan Agreement or the Funding Loan Agreement, the Borrower shall continue to pay (or, to the extent allowed under the Code, shall prepay) the Ongoing Governmental Lender's Fee and related expenses as provided in Section 7(a) and Section 9 of this Regulatory Agreement.

The Funding Lender shall not be liable for the payment of any compensation or any accrued unpaid fees, costs, expenses or penalties otherwise owed by the Borrower or any subsequent owner of the Project hereunder prior to the date of acquisition of the Project by the Funding Lender, whether such acquisition is by foreclosure, deed-in-lieu of foreclosure or comparable conversion of the Project Loan.

Section 27. Limitation on Liability. Notwithstanding any other provision or obligation to the contrary contained in this Regulatory Agreement, (i) the liability of the Borrower under this Regulatory Agreement to any person or entity, including, but not limited to, the Governmental Lender and its successors and assigns, is limited to the Borrower's interest in the Project, the Security Instrument, including the amounts held in the funds and accounts created under the Funding Loan Agreement, or any rights of the Borrower under any guarantees relating to the Project, and such persons and entities shall look exclusively thereto, or to such other security as may from time to time be given for the payment of obligations arising out of this Regulatory Agreement or any other agreement securing the obligations of the Borrower under this Regulatory Agreement; and (ii) from and after the date of this Regulatory Agreement, no deficiency or other personal judgment, nor any order or decree of specific performance (other than pertaining to this Regulatory Agreement, any agreement pertaining to the Project or any other agreement securing the Borrower's obligations under this Regulatory Agreement), shall be rendered against the Borrower, the assets of the Borrower (other than the Borrower's interest in the Project, this Regulatory Agreement, amounts held in the funds and accounts created under the Funding Loan Agreement, any rights of the Borrower under the Funding Loan Agreement or any other documents relating to the Governmental Notes or any rights of the Borrower under any guarantees relating to the Project), its partners, members, successors, transferees or assigns and each their respective officers, directors, employees, partners, agents, heirs and personal representatives, as the case may be, in any action or proceeding arising out of this Regulatory Agreement, the Project Loan Agreement and the Funding Loan Agreement or any agreement securing the obligations of the Borrower under this Regulatory Agreement, or any judgment, order or decree rendered pursuant to any such action or proceeding.

The obligations of the Borrower and any subsequent owner of the Project hereunder shall not be secured by or constitute a lien on, or security interest in, the Project.

Section 28. No Limitation on Actions of Governmental Lender. Nothing in this Regulatory Agreement is intended, nor shall it be construed, to in any way limit the actions of the Governmental

Lender in the exercise of its governmental powers, as contrasted with any contractual rights or powers. It is the express intention of the parties hereto that the Governmental Lender shall retain the full right and ability to exercise its governmental powers with respect to the Borrower, the Project, the Fiscal Agent, the Funding Lender and the transactions contemplated by this Regulatory Agreement to the same extent as if it were not a party to this Regulatory Agreement or the transactions contemplated thereby, and in no event shall the Governmental Lender have any liability in contract arising under this Regulatory Agreement by virtue of any exercise of its governmental powers.

Section 29. Requirements of CDLAC. In addition to other requirements set forth herein and to the extent not prohibited by the requirements set forth in Sections 2 through 6 hereof, the Borrower hereby agrees to comply with each of the requirements of CDLAC set forth in this Section 29, as follows:

(a) The Borrower shall comply with the conditions set forth in Exhibit A to the CDLAC Resolution (the “CDLAC Conditions”), as they may be modified or amended from time to time, which conditions are incorporated herein by reference and made a part hereof and are attached hereto as Exhibit G. Notwithstanding anything to the contrary herein, the provisions of this Section 29 shall remain effective for the period specified in the CDLAC Conditions, unless this Regulatory Agreement shall terminate as otherwise provided in Section 14 hereof.

(b) The Borrower acknowledges that the Governmental Lender intends to monitor the Borrower’s compliance with the terms of the CDLAC Conditions. The Borrower will cooperate fully with the Governmental Lender in connection with such monitoring and reporting requirements as provided herein. Compliance with the terms of the CDLAC Conditions not contained within this Regulatory Agreement, but referred to in the CDLAC Conditions, is the responsibility of the Borrower to report to the Governmental Lender.

(i) The Borrower shall prepare and deliver a Certificate of CDLAC Program Compliance pursuant to the terms of the CDLAC Conditions. The Borrower acknowledges that the Borrower will prepare and submit to the Governmental Lender, not later than January 15 of each year, and the Governmental Lender will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the Governmental Lender and CDLAC a Completion Certificate, and on March 1 every three years thereafter (such that the next succeeding year shall be the beginning of each such three-year period) until the end of the term of the CDLAC Conditions, a Certificate of CDLAC Program Compliance, executed by an Authorized Borrower Representative.

(ii) The Borrower shall prepare and deliver a Self-Certification Certificate pursuant to the terms of the CDLAC Conditions. The Borrower acknowledges that the Borrower will prepare and submit to the Governmental Lender, not later than January 15 of each year, and the Governmental Lender will submit to CDLAC, not later than March 1 of each year, until the Borrower has submitted to the Governmental Lender and CDLAC a Completion Certificate, and on March 1 every three years thereafter (such that the next succeeding year shall be the beginning of each such three-year period) until the end of the term of the CDLAC Conditions, a Self-Certification Certificate in the form provided by CDLAC.

(iii) Within 30 days following the completion of the Project, the Borrower will prepare and submit to the Governmental Lender, the Funding Lender and CDLAC a Completion Certificate. Following the submission of the Completion Certificate, the Borrower will prepare and submit to the Governmental Lender, not later than January 15 every three years thereafter until the end of the Compliance Period, a California Tax

Credit Allocation Committee Project Status Report or equivalent documentation in substantially the form required or otherwise provided by CDLAC from time to time.

(c) Except as otherwise provided in Section 14 of this Regulatory Agreement, this Regulatory Agreement shall terminate on the date 55 years after the date on which at least 50% of the units in the Project are first occupied or such later date as the Qualified Project Period shall begin, as required by the CDLAC Conditions.

(d) The Borrower shall notify CDLAC in writing of: (i) any change in ownership of the Project, (ii) any change in the issuer of the Governmental Notes, (iii) any change in the name of the Project or the Project manager; (iv) any material default under the Funding Loan Agreement, the Project Loan Agreement or this Regulatory Agreement; or (v) termination of this Regulatory Agreement.

(e) Any of the foregoing requirements of CDLAC contained in this Section 29 may be expressly waived by CDLAC, in its sole discretion, in writing, but (i) no waiver by CDLAC of any requirement of this Section 29 shall, or shall be deemed to, extend to or affect any other provision of this Regulatory Agreement except to the extent the Governmental Lender has received an opinion of Tax Counsel that any such provision is not required by the Code and the Act and may be waived without adversely affecting the exclusion from gross income of interest on the Series B-1 Governmental Note for federal income tax purposes; and (ii) any requirement of this Section 29 shall be void and of no force and effect if the Governmental Lender and the Borrower receive a written opinion of Tax Counsel to the effect that compliance with any such requirement would cause interest on the Series B-1 Governmental Note to cease to be Tax-exempt or to the effect that compliance with such requirement would be in conflict with the Code and the Act or any other state or federal law.

(f) CDLAC is intended to be and is a third-party beneficiary of this Regulatory Agreement, and CDLAC shall have the right (but not the obligation) to enforce, separately or jointly with the Governmental Lender or to cause the Governmental Lender to enforce, the provisions of Section 29 of this Regulatory Agreement and to pursue an action for specific performance of such provisions or other available remedy at law or in equity in accordance with Section 18 hereof, provided that any such action or remedy shall not materially adversely affect the interests and rights of the Noteholder and shall otherwise be subject to the terms, conditions and limitations applicable to the enforcement of remedies under this Regulatory Agreement.

(g) CDLAC shall have the right, but not the obligation, to deliver revised CDLAC Conditions to the Borrower after the Closing Date at any time, that are not more restrictive than the original CDLAC Conditions; provided, however, that, with the prior written consent of the Noteholder, which will not be unreasonably withheld: (i) any changes in the terms and conditions of the CDLAC Conditions prior to the recordation against the Project in the real property records of Santa Clara County, California, of a regulatory agreement between the Borrower and the California Tax Credit Allocation Committee ("TCAC Regulatory Agreement") shall be limited to such changes as are necessary to correct any factual errors or to otherwise conform the CDLAC Conditions to any change in facts or circumstances applicable to the Borrower or the Project; and (ii) after recordation of the TCAC Regulatory Agreement, any changes in the terms and conditions of the CDLAC Conditions shall be limited to such changes as are necessary to conform Items 1, 6, 7, 10, 11, 12, 14, 15, 16, 18, 19, 20, 21, 22, 23, 24, 25, 26 or 37 of Exhibit A to the CDLAC Conditions to any change in terms and conditions requested by the Borrower and approved by CDLAC. The Governmental Lender may, in its sole and absolute discretion, require the Borrower to enter into an amendment to this Regulatory Agreement reflecting the revised

CDLAC Conditions, which amendment shall be executed by the parties hereto or their successor in title and duly recorded in the real property records of the County of Santa Clara. The Borrower shall pay any costs and expenses in connection therewith and provide CDLAC with a copy of that recorded amendment reflecting the revised CDLAC Conditions.

Section 30. Limited Liability of Governmental Lender. All obligations of the Governmental Lender hereunder shall be limited obligations, payable solely from proceeds of the Governmental Notes and other amounts derived by the Governmental Lender from the Project Loan or otherwise under the Project Loan Agreement.

Section 31. Conflict With Other Affordability Agreements. In the event of any conflict between the provisions of this Regulatory Agreement and any agreement in connection with Section 3(e) (2) hereof, the provisions providing for the most affordable units, with the most affordability, in the Project shall prevail, so long as at all times the requirements of Sections 2, 3, 4, 5, 6 and 7 of this Regulatory Agreement are in any event satisfied. Notwithstanding the foregoing, a breach or default under any agreement in connection with Section 3(e)(2) hereof shall not, in itself, constitute a breach or a default under this Regulatory Agreement.

Section 32. Annual Reporting Covenant. No later than January 31 of each calendar year (commencing January 31, 2024), the Borrower, on behalf of the Governmental Lender, agrees to provide to the California Debt and Investment Advisory Commission, by any method approved by the California Debt and Investment Advisory Commission, with a copy to the Governmental Lender, the annual report information required by Section 8855(k) (1) of the California Government Code. This covenant shall remain in effect until the later of the date (i) the Governmental Notes has been fully repaid, or (ii) the proceeds of the Governmental Notes have been fully spent.

[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the Governmental Lender and the Borrower have executed this Regulatory Agreement by duly authorized representatives, all as of the date first above written.

CITY OF SAN JOSE, CALIFORNIA, as
Governmental Lender

By: _____
Richard G. Bruneau,
Director of Financing

By: _____
Jacky Morales-Ferrand,
Director of Housing

Approved as to form:

By: _____
Hana Hardy Gunther,
Senior Deputy City Attorney

[Signature Page of the City to The Charles Regulatory Agreement]

KEYES, L.P.,
a California limited partnership

By: Keyes Charities LLC,
a California limited liability company,
its general partner

By: Charities Housing Development
Corporation of Santa Clara County, a
California nonprofit public benefit
corporation its sole member/manager

By: _____
Mark J. Mikl,
Executive Director

[Signature Page of the Borrower to The Charles Regulatory Agreement]

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of _____ } ss.

On _____, before me, _____, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ [Seal]
Notary Public

NOTARY ACKNOWLEDGMENT

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California }
County of _____ } ss.

On _____, before me, _____, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

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Signature _____ [Seal]
Notary Public

NOTARY ACKNOWLEDGMENT

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County of _____ } ss.

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Name(s) of Signer(s)

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WITNESS my hand and official seal.

Signature _____ [Seal]
Notary Public

NOTARY ACKNOWLEDGMENT

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State of California }
County of _____ } ss.

On _____, before me, _____, Notary Public
Date Name and Title of Officer (e.g., "Jane Doe, Notary Public")

personally appeared _____
Name(s) of Signer(s)

who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ [Seal]
Notary Public

EXHIBIT A

DESCRIPTION OF PROJECT SITE

Real property in the City of San Jose, County of Santa Clara, State of California, described as follows:

EXHIBIT B

FORM OF CERTIFICATE OF CONTINUING PROGRAM COMPLIANCE

MULTIFAMILY HOUSING REVENUE BOND PROJECTS
Certificate of Continuing Program Compliance

Reporting Period: January 1, 20__ to December 31, 20__

Project Name: The Charles
 Project Address: _____, San José, California, CA 95112
 Project Borrower: Keyes, L.P., a California limited partnership

The undersigned, who is fully authorized to execute this certificate on behalf of the Borrower, having borrowed certain funds from the City of San José, California (the “Governmental Lender”) for the purpose of financing acquisition and construction of the multifamily rental housing development listed above (the “Project”), does hereby certify the following for this reporting period:

1. The Project was continually in compliance with the Regulatory Agreement executed in connection with such loan from the Governmental Lender;
2. The Project, its units, and its services comply with all requirements set forth in Exhibit A to the CDLAC Resolution No. 22-281;
3. The Project met its requirement to provide ___ units for Low Income Tenants;
4. The submitted Rent Roll for (date) _____ is accurate to the best knowledge of the Project Borrower, and the Project’s occupancy as of the final day of this compliance period is:

Total Units in Project: _____
 Total occupied Low-Income Units: _____
 Total Units Held Vacant for Low-Income Tenants: _____

5. That, as set forth below, the Low Income Tenants who commenced or terminated occupancy during the preceding month are as follows:

Commenced Occupancy		Terminated Occupancy	
Unit #	Residents	Unit #	Residents

6. The Project Borrower, or an entity acting on its behalf, has completed an annual Tenant Income Certification for each unit and has received sufficient documentation to support that certification, both at the resident’s initial occupancy and on the anniversary of the occupancy;

7. The Project Borrower understands that transfer of ownership, in part or whole, requires Governmental Lender’s prior written consent and the provision of all required documents per the Governmental Lender’s Regulatory Agreement;

8. No unremediated default has occurred under the Regulatory Agreement or the Project Loan Agreement. [OR CHOOSE A default under the Regulatory Agreement or the Project Loan Agreement has occurred. The nature of the default and the measures being taken to remedy such default are as follows: [DESCRIBE]]

9. The Project’s current asset management contact information is provided below:

Owner’s Firm:	
Asset management director:	
Title:	
Address:	
Phone:	
Email:	
Asset manager:	
Title:	
Address:	
Phone:	
Email:	

10. The Project’s current property management contact information is provided below:

Property Management Firm:	
Regional property manager:	
Title:	
Address:	
Phone:	
Email:	
Property manager:	
Title:	
Address:	
Phone:	
Email:	

This certification, along with the Rent Rolls and other information submitted, is herewith attested to be true and accurate information to the best of the undersigned's knowledge and belief.

Submitted by (signature): _____

Name: _____

Company: _____

Title: _____

Date: _____

[Signature Page to The Charles Certificate of Program Compliance]

EXHIBIT C

FORM OF INCOME CERTIFICATION

TENANT INCOME CERTIFICATION

Initial Certification Recertification Other _____

Effective Date:
Move-in Date:
(MM/DD/YYYY)

PART I - DEVELOPMENT DATA

Property Name: The Charles County: Santa Clara BIN #: _____
 Address: _____, San José, CA Unit Number: _____ # Bedrooms: _____

PART II. HOUSEHOLD COMPOSITION

HH Mbr #	Last Name	First Name & Middle Initial	Relationship to Head of Household	Date of Birth (MM/DD/YYYY)	F/T Student (Y or N)	Social Security or Alien Reg.
1		HEAD				
2						
3						
4						
5						
6						
7						

PART III. GROSS ANNUAL INCOME (USE ANNUAL AMOUNTS)

	(A) Employment or Wages	(B) Soc. Security/Pensions	(C) Public Assistance	(D) Other Income

Add totals from (A) through (D), above TOTAL INCOME (E): \$

PART IV. INCOME FROM ASSETS

Hshld Mbr #	(F) Type of Asset	(G) C/I	(H) Cash Value of Asset	(I) Annual Income from Asset

TOTALS: \$	\$
Enter Column (H) Total	Passbook Rate
If over \$5000 \$ _____ X	2.00% = (J) Imputed Income
Enter the greater of the total of column I, or J: imputed income	TOTAL INCOME FROM ASSETS (K)
(L) Total Annual Household Income from all Sources [Add (E) + (K)]	\$

II. HOUSEHOLD CERTIFICATION & SIGNATURES

The information on this form will be used to determine maximum income eligibility. I/we have provided for each person(s) set forth in Part II acceptable verification of current anticipated annual income. I/we agree to notify the landlord immediately upon any member of the household moving out of the unit or any new member moving in. I/we agree to notify the landlord immediately upon any member becoming a full time student.

Under penalties of perjury, I/we certify that the information presented in this Certification is true and accurate to the best of my/our knowledge and belief. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information may result in the termination of the lease agreement.

_____ Signature	_____ (Date)	_____ Signature	_____ (Date)
_____ Signature	_____ (Date)	_____ Signature	_____ (Date)

PART V. DETERMINATION OF INCOME ELIGIBILITY

TOTAL ANNUAL HOUSEHOLD INCOME FROM ALL SOURCES:
From item (L) on page 1 \$

RECERTIFICATION ONLY:
Current Income Limit x 140%:
\$ _____
Household Income exceeds 140% at recertification:
 Yes No

Current Income Limit per Family Size: \$ _____

Household Income at Move-in: \$ _____ Household Size at Move-in: _____

PART VI. RENT

Tenant Paid Rent	\$ _____	Rent Assistance: \$ _____
Utility Allowance	\$ _____	Other non-optional charges: \$ _____
GROSS RENT FOR UNIT: (Tenant paid rent plus Utility Allowance & other nonoptional charges)	\$ _____	Unit Meets Rent Restriction at: θ 60% θ 50% θ 40% θ 30% θ _____%
Maximum Rent Limit for this unit:	\$ _____	

PART VII. STUDENT STATUS

<p>ARE ALL OCCUPANTS FULL TIME STUDENTS? <input type="checkbox"/> Yes <input type="checkbox"/> No</p>	<p>If yes, Enter student explanation* (also attach documentation)</p> <div style="border: 1px solid black; padding: 5px; min-height: 80px;"> <p align="center">Enter 1-5</p> </div>	<p>*Student Explanation:</p> <ol style="list-style-type: none"> 1. Current TANF assistance 2. Former TANF assistance (foster children only) 3. Job Training Program 4. Single parent / dependent child 5. Married/joint return
---	---	---

PART VIII. PROGRAM TYPE

Mark the program(s) listed below (a. through e.) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification.

a. Tax Credit <input type="checkbox"/> See Part V above.	b. HOME <input type="checkbox"/> <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> ≤ 50% AMGI <input type="checkbox"/> ≤ 60% AMGI <input type="checkbox"/> ≤ 80% AMGI <input type="checkbox"/> OI**	c. Tax Exempt <input type="checkbox"/> <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 60% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	d. AHDP <input type="checkbox"/> <input type="checkbox"/> <i>Income Status</i> <input type="checkbox"/> 50% AMGI <input type="checkbox"/> 80% AMGI <input type="checkbox"/> OI**	e. <i>(Name of Program)</i> <i>Income Status</i> <input type="checkbox"/> _____ <input type="checkbox"/> _____ <input type="checkbox"/> OI**
---	---	---	--	---

** Upon recertification, household was determined over-income (OI) according to eligibility requirements of the program(s) marked above.

SIGNATURE OF OWNER/REPRESENTATIVE

Based on the representations herein and upon the proofs and documentation required to be submitted, the individual(s) named in Part II of this Tenant Income Certification is/are eligible under the provisions of Section 42 of the Internal Revenue Code, as amended, and the Land Use Restriction Agreement (if applicable), to live in a unit in this Development.

SIGNATURE OF OWNER/REPRESENTATIVE

DATE

INSTRUCTIONS FOR COMPLETING TENANT INCOME CERTIFICATION

This form is to be completed by the owner or an authorized representative.

Part I - Development Data

Check the appropriate box for Initial Certification (move-in), Recertification (annual recertification), or Other. If Other, designate the purpose of the recertification (i.e., a unit transfer, a change in household composition, or other state-required recertification).

Move-in Date Enter the date the tenant has or will take occupancy of the unit.

Effective Date Enter the effective date of the certification. For move-in, this should be the move-in date. For annual recertification, this effective date should be no later than one year from the effective date of the previous (re)certification.

Property Name Enter the name of the development.

County Enter the county (or equivalent) in which the building is located.

BIN # Enter the Building Identification Number (BIN) assigned to the building (from IRS Form 8609).

Address Enter the address of the building.

Unit Number Enter the unit number.

Bedrooms Enter the number of bedrooms in the unit.

Part II - Household Composition

List all occupants of the unit. State each household member's relationship to the head of household by using one of the following coded definitions:

H - Head of Household	S - Spouse
A - Adult co-tenant	O - Other family member
C - Child	F - Foster child(ren)/adult(s)
L - Live-in caretaker	N - None of the above

Enter the date of birth, student status, and social security number or alien registration number for each occupant.

If there are more than 7 occupants, use an additional sheet of paper to list the remaining household members and attach it to the certification.

Part III - Annual Income

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income, including acceptable forms of verification.

From the third party verification forms obtained from each income source, enter the gross amount anticipated to be received for the twelve months from the effective date of the (re)certification. Complete a separate line for each income-earning member. List the respective household member number from Part II.

Column (A) Enter the annual amount of wages, salaries, tips, commissions, bonuses, and other income from employment; distributed profits and/or net income from a business.

Column (B) Enter the annual amount of Social Security, Supplemental Security Income, pensions, military retirement, etc.

Column (C) Enter the annual amount of income received from public assistance (i.e., TANF, general assistance, disability, etc.).

Column (D) Enter the annual amount of alimony, child support, unemployment benefits, or any other income regularly received by the household.

Row (E) Add the totals from columns (A) through (D), above. Enter this amount.

Part IV - Income from Assets

See HUD Handbook 4350.3 for complete instructions on verifying and calculating income from assets, including acceptable forms of verification.

From the third party verification forms obtained from each asset source, list the gross amount anticipated to be received during the twelve months from the effective date of the certification. List the respective household member number from Part II and complete a separate line for each member.

Column (F)	List the type of asset (i.e., checking account, savings account, etc.)
Column (G)	Enter C (for current, if the family currently owns or holds the asset), or I (for imputed, if the family has disposed of the asset for less than fair market value within two years of the effective date of (re)certification).
Column (H)	Enter the cash value of the respective asset.
Column (I)	Enter the anticipated annual income from the asset (i.e., savings account balance multiplied by the annual interest rate).
TOTALS	Add the total of Column (H) and Column (I), respectively.
If the total in Column (H) is greater than \$5,000, you must do an imputed calculation of asset income. Enter the Total Cash Value, multiply by 2% and enter the amount in (J), Imputed Income.	
Row (K)	Enter the greater of the total in Column (I) or (J)
Row (L)	Total Annual Household Income From all Sources Add (E) and (K) and enter the total

HOUSEHOLD CERTIFICATION AND SIGNATURES

After all verifications of income and/or assets have been received and calculated, each household member age 18 or older must sign and date the Tenant Income Certification. For move-in, it is recommended that the Tenant Income Certification be signed no earlier than 5 days prior to the effective date of the certification.

Part V – Determination Of Income Eligibility

Total Annual Household Income from all Sources	Enter the number from item (L).
Current Income Limit per Family Size	Enter the Current Move-in Income Limit for the household size.
Household income at move-in Household size at move-in	For recertifications, only. Enter the household income from the move-in certification. On the adjacent line, enter the number of household members from the move-in certification.
Household Meets Income Restriction	Check the appropriate box for the income restriction that the household meets according to what is required by the set-aside(s) for the project.
Current Income Limit x 140%	For recertifications only. Multiply the Current Maximum Move-in Income Limit by 140% and enter the total. Below, indicate whether the household income exceeds that total. If the Gross Annual Income at recertification is greater than 140% of the current income limit, then the available unit rule must be followed.

Part VI - Rent

Tenant Paid Rent	Enter the amount the tenant pays toward rent (not including rent assistance payments such as Section 8).
Rent Assistance	Enter the amount of rent assistance, if any.
Utility Allowance	Enter the utility allowance. If the owner pays all utilities, enter zero.
Other non-optional charges	Enter the amount of non-optional charges, such as mandatory garage rent, storage lockers, charges for services provided by the development, etc.
Gross Rent for Unit	Enter the total of Tenant Paid Rent plus Utility Allowance and other non-optional charges.
Maximum Rent Limit for this unit	Enter the maximum allowable gross rent for the unit.
Unit Meets Rent Restriction at	Check the appropriate rent restriction that the unit meets according to what is required by the

set-aside(s) for the project.

Part VII - Student Status

If all household members are full time* students, check "yes". If at least one household member is not a full time student, check "no".

If "yes" is checked, the appropriate exemption must be listed in the box to the right. If none of the exemptions apply, the household is ineligible to rent the unit.

**Full time is determined by the school the student attends.*

Part VIII – Program Type

Mark the program(s) for which this household's unit will be counted toward the property's occupancy requirements. Under each program marked, indicate the household's income status as established by this certification/recertification. If the property does not participate in the HOME, Tax-Exempt Bond, Affordable Housing Disposition, or other housing program, leave those sections blank.

- Tax Credit See Part V above.
- HOME If the property participates in the HOME program and the unit this household will occupy will count towards the HOME program set-asides, mark the appropriate box indicating the household's designation.
- Tax Exempt If the property participates in the Tax Exempt Bond program, mark the appropriate box indicating the household's designation.
- AHDP If the property participates in the Affordable Housing Disposition Program (AHDP), and this household's unit will count towards the set-aside requirements, mark the appropriate box indicating the household's designation.
- Other If the property participates in any other affordable housing program, complete the information as appropriate.

SIGNATURE OF OWNER/REPRESENTATIVE

It is the responsibility of the owner or the owner's representative to sign and date this document immediately following execution by the resident(s).

The responsibility of documenting and determining eligibility (including completing and signing the Tenant Income Certification form) and ensuring such documentation is kept in the tenant file is extremely important and should be conducted by someone well trained in tax credit compliance.

These instructions should not be considered a complete guide on tax credit compliance. The responsibility for compliance with federal program regulations lies with the owner of the building(s) for which the credit is allowable.

TENANT INCOME CERTIFICATION QUESTIONNAIRE	
Name: _____	Telephone Number: _____
<input type="checkbox"/> Initial Certification # _____	()
<input type="checkbox"/> Re-certification	BIN
<input type="checkbox"/> Other # _____	Unit

Income Information

YES	NO	Income Information	Monthly Gross Income
<input type="checkbox"/>	<input type="checkbox"/>	I/we am self employed. (List nature of self employment) _____	(use net income from business) \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have a job and receive wages, salary, overtime pay, commissions, fees, tips, bonuses, and/or other compensation: List the businesses and/or companies that pay you: Name of Employer 1) _____ 2) _____ 3) _____	\$ _____ \$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive cash contributions of gifts including rent or utility payments, on an ongoing basis from persons not living with me.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive unemployment benefits.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive Veteran's Administration, GI Bill, or National Guard/Military benefits/income.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive periodic social security payments.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	The household receives unearned income from family members age 17 or under (example: Social Security, Trust Fund disbursements, etc.).	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive Supplemental Security Income (SSI).	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive disability or death benefits other than Social Security.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive Public Assistance Income (examples: TANF, AFDC)	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we am entitled to receive child support payments.	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we am currently receiving child support payments. If yes, from how many persons do you receive support? _____	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we am/are currently making efforts to collect child support owed to me. List efforts being made to collect child support: _____ _____	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/> I/we receive alimony/spousal support payments	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive periodic payments from trusts, annuities, inheritance, retirement funds or pensions, insurance policies, or lottery winnings. If yes, list sources: 1) _____ 2) _____	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we receive income from real or personal property.	(use net earned income) \$ _____

Asset information

YES	NO		Interest Rate	Cash Value
<input type="checkbox"/>	<input type="checkbox"/>	I/we have a checking account(s). If yes, list bank(s) 1) _____ 2) _____	_____% _____%	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have a savings account(s) If yes, list bank(s) 1) _____ 2) _____	_____% _____%	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have a revocable trust(s) If yes, list bank(s) 1) _____	_____%	\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we own real estate. If yes, provide description: _____		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we own stocks, bonds, or Treasury Bills If yes, list sources/bank names 1) _____ 2) _____ 3) _____	_____% _____% _____%	\$ _____ \$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have Certificates of Deposit (CD) or Money Market Account(s). If yes, list sources/bank names 1) _____ 2) _____ 3) _____	_____% _____% _____%	\$ _____ \$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have an IRA/Lump Sum Pension/Keogh Account/401K. If yes, list bank(s) 1) _____ 2) _____	_____% _____%	\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have a whole life insurance policy. If yes, how many policies _____		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have cash on hand.		\$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have disposed of assets (i.e. gave away money/assets) for less than the fair market value in the past 2 years. If yes, list items and date disposed: 1) _____ 2) _____		\$ _____ \$ _____
<input type="checkbox"/>	<input type="checkbox"/>	I/we have income from assets or sources other than those listed above. If yes, list type below: 1) _____ 2) _____	_____% _____%	\$ _____ \$ _____

Student Status

YES	NO	
<input type="checkbox"/>	<input type="checkbox"/>	Does the household consist of persons who are all full-time students (Examples: College/University, trade school, etc.)?
<input type="checkbox"/>	<input type="checkbox"/>	Does your household anticipate becoming a full-time student household in the next 12 months?
<input type="checkbox"/>	<input type="checkbox"/>	If you answered yes to either of the previous two questions are you:
<input type="checkbox"/>	<input type="checkbox"/>	• Receiving assistance under Title IV of the Social Security Act (AFDC/TANF)
<input type="checkbox"/>	<input type="checkbox"/>	• Enrolled in a job training program receiving assistance through the Job Training Participation Act (JTPA) or other similar program
<input type="checkbox"/>	<input type="checkbox"/>	• Married and filing a joint tax return
<input type="checkbox"/>	<input type="checkbox"/>	• Single parent with a dependant child or children and neither you nor your child(ren) are dependent of another individual

Under penalties of perjury, I certify that the information presented on this form is true and accurate to the best of my/our knowledge. The undersigned further understands that providing false representations herein constitutes an act of fraud. False, misleading or incomplete information will result in the denial of application or termination of the lease agreement.

PRINTED NAME OF APPLICANT/TENANT SIGNATURE OF APPLICANT/TENANT DATE

WITNESSED BY (SIGNATURE OF OWNER/REPRESENTATIVE)

EXHIBIT D
[RESERVED]

EXHIBIT E

FORM OF CERTIFICATE OF CDLAC PROGRAM COMPLIANCE

CERTIFICATION of COMPLIANCE II
for QUALIFIED RESIDENTIAL RENTAL PROJECT

1. Project Name Change: No Yes
(If project name has changed since the award of allocation, please note the new project name as well as the original project name.)
New: _____ Original: The Charles

2. CDLAC Application No.: 22-633

3. Bond Issuer Change: No Yes
(If Bond Issuer has changed since the award as a result of refinancing or refunding of an allocation, please note the new Issuer as well as the original Issuer.)
New: _____ Original: City of San José, California
Address: _____
Phone #: _____
Email: _____

4. Has a termination of the Regulatory Agreement occurred or is a termination planned in the next year? Has proper noticing occurred?
 No Yes If yes, please describe and explain.
If your answer Yes, there is no need to complete the rest of the form. Please submit the form completed through questions #4.

5. Change in Borrower: No Yes
(If Borrower has changed since the award affecting the CDLAC resolution, please note the new Borrower as well as the original Borrower.)
New: _____ Original: Keyes, L.P.
Address: _____
Phone #: _____
Email: _____

6. Change in Management Company: No Yes *(If yes, please provide the following information for the New Management Company.)*
New: _____
Address: _____
Phone #: _____
Email: _____

7. Has the Qualified Project Period commenced? No Yes
(If yes, please submit the Certificate of Completion (one time only.)
 Already Submitted Certification

8. Has the project been completed and placed in service? No ___ Yes ___
 (If yes, please submit the Certificate of Completion (one time only.))
 ___ Already Submitted Certification

9. Has any of the following events occurred associated with the bond allocation:
 notices of defaults associated with rents and income requirements, Bond Default or a Qualified Bond Default.
 No ___ Yes ___ If yes, please describe and explain.

10.

Federally Bond Restricted Units (Reflected in PSR)	Other Restrictions (Reflected in PSR)	Total (Reported in CDLAC Resolution)
_____ at 50% AMI	_____ at 50% AMI	_____ at 50% AMI
_____ at 60% AMI	_____ at 60% AMI	_____ at 60% AMI

Please attach a copy of the project's TCAC Project Status Report (PSR) or equivalent documentation.

11. Please indicate the distribution of the CDLAC restricted 10% of the 50% AMI units.

Bedroom Type	# of Units in PSR	# of Units in CDLAC Resolution
1 Bedroom	_____	_____
2 Bedroom	_____	_____
3 Bedroom	_____	_____

12. If the Project has committed to and is currently providing the service amenities for a term as specified in the CDLAC resolution, please verify the services are being provided: on a regular and ongoing basis, which are provided free of charge and all hour requirements are being met:

- ___ After-school Programs
- ___ Educational, Health and Wellness or skill development classes
- ___ Health and Wellness services and programs (not group classes)
- ___ Licensed Childcare provided for a minimum of 20 hours per week (Monday-Friday)
- ___ Bona-Fide Service Coordinator/Social Worker

Is the service being offered on an ongoing basis and provided free of charge (childcare excluded)?
 No ___ Yes ___

Are all hour requirements being met? No ___ Yes ___

Attach evidence demonstrating that the above listed services are being provided and have met the requirements in the CDLAC Resolution. Including but not limited to MOUs and/or contracts associated with the services rendered, a 12-month schedule (current reporting year) of the services offered, flyers, sign-up sheets, etc.

Pursuant to Section 14 of Resolution No. 22-633 (the "Resolution"), adopted by the California Debt Limit Allocation Committee (the "Committee") on November 30, 2022, I, _____, an Officer of the Borrower, hereby certify under penalty of perjury that, as of the date of this Certification, the above-mentioned Project is in compliance with the terms and conditions set forth in the Resolution as outlined above. I further certify that I have read and understand the CDLAC Resolution, which specifies that once the Bonds are issued, the terms and conditions set forth in the Resolution Exhibit A, shall be enforceable by the Committee through an action for specific performance, negative points, withholding future allocation or any other available remedy.

Signature of Officer

Date

Printed Name of Officer

Phone Number

Title of Officer

EXHIBIT F

FORM OF COMPLETION CERTIFICATE

1) Project Name: The Charles

(If project name has changed since the award of allocation please note the original project name as well as the new project name and request a change in the CDLAC resolution.)

Original: _____

2) CDLAC Application No.: 22-633

3) Name of Bond Issuer: City of San José, California

4) Name of Borrower: Keyes, L.P.

(If Borrower has changed name since the award please note the original Borrower as well as the new Borrower and request a change in the CDLAC resolution.)

Original: _____

5) The undersigned hereby certifies that all work on the Project was substantially completed as of _____, 20____.

The undersigned hereby further certifies that:

(a) the aggregate amount disbursed on the Loan to date is \$ _____;

(b) all amounts disbursed from proceeds of the Governmental Notes (as defined in the Regulatory Agreement and Declaration of Restrictive Covenants, dated as of June 1, 2023 (the “Regulatory Agreement”) between the Bond Issuer and the Borrower, and referred to below as the “Governmental Notes”), have been applied to pay or reimburse the undersigned for the payment of Project Costs (as that term is defined in the Regulatory Agreement) and none of the amounts disbursed from the proceeds of the Governmental Notes have been applied to pay or reimburse any party for the payment of costs or expenses other than Project Costs; and

(c) at least 95% of the amounts disbursed from the proceeds of the Series B-1 Governmental Note (as defined in the Regulatory Agreement) have been applied to pay or reimburse the Borrower for the payment of Qualified Project Costs (as that term is defined in the Regulatory Agreement), and less than 25% of the amounts disbursed from the proceeds of the Series B-1 Governmental Note, exclusive of amounts applied to pay the costs of issuing the Series B-1 Governmental Note, have been applied to pay or reimburse the Borrower for the cost of acquiring land.

6) The undersigned hereby certifies the Project meets the general federal rule for a Qualified Project Period.

No _____ Yes _____

(a) 10% of the dwelling units in the Project financed in part from the proceeds of the Bonds were first occupied on _____, 20__ and

(b) 50% of the dwelling units in the Project financed in part from the proceeds of the Bonds were first occupied on _____, 20__.

7) If no to (6), the undersigned hereby certifies the Project meets the special federal rule for a Qualified Project Period.

No _____ Yes _____

(Project qualifies if it is an acquisition/rehabilitation where no more than 90% of the units were not available for occupancy within 60 days of the earlier of the Project acquisition or the Bond issuance date.)

(a) Governmental Notes were issued on _____, 20__.

(b) Property was acquired on _____, 20__.

(c) The date 10% of the units were available to occupy (within 60 days of the earlier of the acquisition or Governmental Note issuance) is _____, 20__.

Signature of Officer

Date

Printed Name of Officer

Phone Number

Title of Officer

EXHIBIT G
CDLAC RESOLUTION